



Sen. Kimberly A. Lightford

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1 AMENDMENT TO SENATE BILL 1167

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1167 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Environmental Protection Act is amended by  
5 adding Section 22.39 as follows:

6 (415 ILCS 5/22.39 new)

7 Sec. 22.39. Donation of excess food and recycling of food  
8 scraps.

9 (a) Findings and purpose.

10 (1) The General Assembly finds that approximately 40%  
11 of the food produced in the United States today goes  
12 uneaten. Much of this organic waste is disposed of in  
13 solid waste landfills, where its decomposition accounts  
14 for over 15% of our nation's emissions of methane, a  
15 potent greenhouse gas.

16 (2) Recognizing the importance of food scraps to our

1 environment, economy, and the health of Illinoisans, this  
2 Section establishes a food scraps hierarchy for the State  
3 of Illinois. The first tier of the hierarchy is source  
4 reduction and reducing the volume of surplus food  
5 generated. The second tier is recovery and feeding  
6 wholesome food to hungry people. The third tier is  
7 repurposing and feeding animals. The fourth tier is  
8 recycling and processing any leftover food, such as by  
9 composting or anaerobic digestion, to create a  
10 nutrient-rich soil amendment.

11 (3) This legislation is designed to address each tier  
12 of the hierarchy by: encouraging the prevention of food  
13 waste generation by commercial generators and residents;  
14 directing the recovery of excess edible food from  
15 high-volume commercial food waste generators; and ensuring  
16 that a significant portion of inedible food waste from  
17 large volume food waste generators is managed in a  
18 sustainable manner and does not end up being sent to  
19 landfills or incinerators.

20 (b) In this Section:

21 "Designated food scraps generator" means a person who  
22 generates at a single location an annual average of 2 tons per  
23 week or more of food scraps based on a methodology established  
24 by the Agency by rule, including supermarkets, restaurants,  
25 higher educational institutions, hotels, food processors,  
26 correctional facilities, sports or entertainment venues, and

1 health care facilities. For a location with multiple  
2 independent food service businesses, such as a mall or college  
3 campus, the entity responsible for contracting for solid waste  
4 hauling services is responsible for managing food scraps from  
5 the independent food service businesses.

6 "Food scraps" means inedible food, trimmings from the  
7 preparation of food, food-soiled paper, and edible food that  
8 is not donated. "Food scraps" does not include used cooking  
9 oil, yellow grease, food from residential sources, any food  
10 identified by a rule adopted by the Agency in consultation  
11 with the Department of Agriculture and markets, or any food  
12 that is subject to a recall or seizure due to the presence of  
13 pathogens, including, but not limited to, listeria  
14 monocytogenes, confirmed clostridium botulinum, Escherichia  
15 coli 0157:H7, and all salmonella, in ready-to-eat foods.

16 "Incinerator" means an enclosed device using controlled  
17 flame combustion, the primary purpose of which is to thermally  
18 break down solid, liquid, or gaseous combustible hazardous  
19 waste, producing residue that contains little or no  
20 combustible materials.

21 "Landfill" means a disposal facility or part of a facility  
22 where solid waste, including hazardous waste, is placed in or  
23 on land and that is not a land treatment facility, a surface  
24 impoundment, or an injection well.

25 "Organics recycler" means a facility, permitted by the  
26 Agency, that recycles food scraps through use as animal feed

1 or a feed ingredient, rendering, land application, composting,  
2 aerobic digestion, anaerobic digestion, fermentation, or  
3 ethanol production. Animal scraps, food-soiled paper, and  
4 post-consumer food scraps are prohibited for use as animal  
5 feed or as a feed ingredient. The proportion of the product  
6 created from food scraps by a composting or digestion  
7 facility, including a wastewater treatment plant that operates  
8 a digestion facility or other treatment system, must be used  
9 in a beneficial manner as a soil amendment and shall not be  
10 disposed of or incinerated.

11 "Person" means any business entity, partnership, company,  
12 corporation, not-for-profit corporation, association,  
13 governmental entity, public benefit corporation, public  
14 authority, firm, or organization.

15 "Single location" means contiguous property under common  
16 ownership, which may include one or more buildings.

17 "Transfer station" means a solid waste management  
18 facility, whether owned or operated by a private or public  
19 entity, other than a recyclables handling and recovery  
20 facility, used oil facility, or a general construction or  
21 demolition debris processing facility, where solid waste is  
22 received for the purpose of subsequent transfer to another  
23 solid waste management facility for processing, treating,  
24 disposal, recovery, or further transfer.

25 (c) On and after January 1, 2022, the following shall  
26 apply:

1           (1) A designated food scraps generator shall separate  
2           the designated food scraps generator's excess edible food  
3           for donation for human consumption to the maximum extent  
4           practicable, and in accordance with applicable laws,  
5           rules, and regulations related to food donation.

6           (2) Except as provided in paragraph (3), each  
7           designated food scraps generator that is within 15 miles  
8           of an organics recycler, to the extent that the organics  
9           recycler has capacity to accept all of the designated food  
10           scraps generator's food scraps based on the Agency's  
11           yearly estimate of an organic recycler's capacity pursuant  
12           to subsection (j), shall:

13                   (A) separate its remaining food scraps from other  
14                   solid waste;

15                   (B) ensure proper storage for food scraps on site  
16                   that shall preclude food scraps from becoming odorous  
17                   or attracting vectors, such as a container that has a  
18                   lid and a latch that keeps the lid closed and is  
19                   resistant to tampering by rodents or other wildlife  
20                   and has sufficient capacity;

21                   (C) have information available and provide  
22                   training for employees concerning the proper methods  
23                   to separate and store food scraps; and

24                   (D) obtain a transporter that will deliver food  
25                   scraps to an organics recycler, self-haul its food  
26                   scraps to an organics recycler, or provide for

1           organics recycling on-site via in-vessel composting,  
2           aerobic or anaerobic digestion, or any other method of  
3           processing organic waste that the Agency approves by  
4           rule, for some or all of the food waste it generates on  
5           its premises, provided that the remainder is delivered  
6           to an organics recycler.

7           (3) The provisions of paragraph (2) do not apply to  
8           any designated food scraps generator that has all of its  
9           food scraps processed in a mixed solid waste composting or  
10           mixed solid waste anaerobic digestion facility.

11           (d) A designated food scraps generator shall submit an  
12           annual report to the Agency on or before March 1, 2023, and  
13           annually thereafter, in an electronic format. The report must  
14           summarize the amount of edible food donated, the amount of  
15           food scraps recycled, the organics recycler or recyclers and  
16           associated transporters used, and any other information  
17           required by the Agency.

18           (e) A designated food scraps generator may petition the  
19           Agency for a temporary waiver from some or all of the  
20           requirements of this Section. The petition must include  
21           evidence of undue hardship based on:

22           (1) the designated food scraps generator not meeting  
23           the 2 tons per week threshold;

24           (2) the cost of processing organic waste not being  
25           reasonably competitive with the cost of disposing of waste  
26           by landfill;

1           (3) the organics recycler not having sufficient  
2           capacity, despite the Agency's calculation under  
3           subsection (j); or

4           (4) the unique circumstances of the generator.

5           A waiver under this subsection shall be no longer than one  
6           year in duration. However, the Agency may renew a waiver under  
7           this subsection.

8           (f) A waste transporter that collects food scraps for  
9           recycling from a designated food scraps generator shall:

10           (1) deliver the food scraps to a transfer station that  
11           will deliver the food scraps to an organics recycler,  
12           unless the designated food scraps generator has received a  
13           temporary waiver under subsection (e); or

14           (2) deliver the food scraps directly to an organics  
15           recycler.

16           A waste transporter that collects food scraps from a  
17           designated food scraps generator shall take all reasonable  
18           precautions to not deliver the food scraps to an incinerator  
19           or a landfill nor to commingle the material with any other  
20           solid waste, unless the commingled waste can be processed by  
21           an organics recycler or the designated food scraps generator  
22           has received a temporary waiver under subsection (e).

23           (g) A transfer station that receives food scraps from a  
24           designated food scraps generator must ensure that the food  
25           scraps are taken to an organics recycler, unless the  
26           designated food scraps generator has received a temporary

1 waiver under subsection (e). A transfer station shall take all  
2 reasonable precautions to not commingle the material with any  
3 other solid waste unless the commingled waste can be processed  
4 by an organics recycler.

5 (h) An incinerator or landfill shall take all reasonable  
6 precautions to not accept food scraps from designated food  
7 scraps generators required to send food scraps to an organics  
8 recycler as outlined under subsection (c), unless the  
9 designated food scraps generator has received a temporary  
10 waiver under subsection (e).

11 (i) The Agency shall publish on its website:

12 (1) the methodology the Agency will use to determine  
13 who is a designated food scraps generator;

14 (2) the waiver process under subsection (e);

15 (3) procedures to minimize odors and vectors in order  
16 to comply with subparagraph (B) of paragraph (2) of  
17 subsection (c); and

18 (4) a list of all designated food scraps generators,  
19 organics recyclers, and waste transporters that manage  
20 source-separated organics.

21 (j) No later than June 1, 2021, and annually thereafter,  
22 the Agency shall assess the capacity of each organic recycler  
23 and notify designated food scraps generators if they are  
24 required to comply with the provisions of subsection (c).

25 (k) The Agency shall develop and make available  
26 educational materials to assist designated food scraps



1 generators with complying with this Section. The Agency shall  
2 also develop education materials on food waste minimization  
3 and encourage municipalities to disseminate these materials  
4 both on their municipal websites and in any such future  
5 mailings to their residents as they may distribute.

6 (l) The Agency shall regulate organics recyclers to ensure  
7 that their activities do not impair water quality or otherwise  
8 harm human health and the environment.

9 (m) The Agency shall, after one or more public hearings,  
10 adopt rules necessary to implement the provisions of this  
11 Section, including:

12 (1) the methodology the Agency will use to determine  
13 who is a designated food scraps generator;

14 (2) the waiver process under subsection (e);

15 (3) procedures to minimize odors and vectors in order  
16 to comply with subparagraph (B) of paragraph (2) of  
17 subsection (c);

18 (4) a list of all designated food scraps generators,  
19 organics recyclers, and waste transporters that manage  
20 source-separated organics; and

21 (5) how designated food scraps generators shall comply  
22 with paragraph (1) of subsection (c) and subparagraph (A)  
23 of paragraph (2) of subsection (c).

24 (n) This Section does not apply to any designated food  
25 scraps generators located in a city with a population of  
26 1,000,000 or more that has a local law, ordinance, or

1 regulation in place that requires the diversion of edible food  
2 and food scraps from disposal.

3 (o) This Section does not apply to hospitals, elementary  
4 schools, or secondary schools.

5 (p) No later than January 1, 2023, and on an annual basis  
6 thereafter, the Agency shall submit a report to the Governor  
7 and the General Assembly describing the operation of the food  
8 donation and food scraps recycling program under this Section,  
9 including the amount of edible food donated, the amount of  
10 food scraps recycled, sample educational materials required  
11 under subsection (k), and the number of temporary waivers  
12 provided under subsection (e).

13 Section 97. Severability. The provisions of this Act are  
14 severable under Section 1.31 of the Statute on Statutes.

15 Section 99. Effective date. This Act takes effect upon  
16 becoming law."