



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB5773

Introduced 2/15/2008, by Rep. Karen May - Lisa M. Dugan - Al Riley - Elaine Nekritz

SYNOPSIS AS INTRODUCED:

30 ILCS 105/5.708 new

30 ILCS 105/5.709 new

415 ILCS 5/22.28

415 ILCS 5/22.28b new

from Ch. 111 1/2, par. 1022.28

Amends the Environmental Protection Act and the State Finance Act. Provides that white goods may not be disposed in a landfill unless the white goods components and recyclable components have been removed. Creates the White Goods Disposal Fund and the White Goods Recycling Fund as special funds in the State treasury, and provides that moneys in the Funds may be used for certain administrative purposes and for grants to certain manufacturers of products composed of recycled material. Requires retailers of white goods to collect a fee of \$8 from the consumer for the purchase of white goods, and requires the retailer to pay all or a portion of that fee to the Department of Revenue for deposit into the White Goods Disposal Fund and the White Goods Recycling Fund. Sets forth provisions for the fee collections and returns by retailers. Provides that the amendatory Act does not authorize rulemaking. Effective immediately.

LRB095 19930 RCE 46351 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning environmental safety.

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

4 Section 5. The State Finance Act is amended by adding
5 Sections 5.708 and 5.709 as follows:

6 (30 ILCS 105/5.708 new)

7 Sec. 5.708. The White Goods Disposal Fund.

8 (30 ILCS 105/5.709 new)

9 Sec. 5.709. The White Goods Recycling Fund.

10 Section 10. The Environmental Protection Act is amended by
11 changing Section 22.28 and by adding Section 22.28b as follows:

12 (415 ILCS 5/22.28) (from Ch. 111 1/2, par. 1022.28)

13 Sec. 22.28. White goods.

14 (a) Beginning July 1, 2008 ~~1994~~, no owner or operator of a
15 landfill shall accept any white goods or white goods components
16 for final disposal. ~~person shall knowingly offer for collection~~
17 ~~or collect white goods for the purpose of disposal by~~
18 ~~landfilling unless the white good components have been removed.~~

19 ~~(b) Beginning July 1, 1994, no owner or operator of a~~
20 ~~landfill shall accept any white goods for final disposal,~~

1 ~~except that white goods may be accepted if:~~

2 ~~(1) the landfill participates in the Industrial~~
3 ~~Materials Exchange Service by communicating the~~
4 ~~availability of white goods;~~

5 ~~(2) prior to final disposal, any white good components~~
6 ~~have been removed from the white goods; and~~

7 ~~(3) if white good components are removed from the white~~
8 ~~goods at the landfill, a site operating plan satisfying~~
9 ~~this Act has been approved under the site operating permit~~
10 ~~and the conditions of such operating plan are met.~~

11 (b) ~~(e)~~ For the purposes of this Section:

12 (1) "White goods" shall include all discarded
13 refrigerators, ranges, water heaters, freezers, air
14 conditioners, stoves, clothes washers, clothes dryers,
15 dehumidifiers, ovens, dishwashers, water coolers, heat
16 pumps, chillers, furnaces, and boilers ~~humidifiers and~~
17 ~~other similar domestic and commercial large appliances.~~

18 (2) "White good components" shall include:

19 (i) any chlorofluorocarbon refrigerant gas;

20 (ii) any electrical switch containing mercury;

21 (iii) any device that contains or may contain PCBs
22 in a closed system, such as a dielectric fluid for a
23 capacitor, ballast or other component; and

24 (iv) any fluorescent lamp that contains mercury.

25 ~~(d) The Agency is authorized to provide financial~~
26 ~~assistance to units of local government from the Solid Waste~~

1 ~~Management Fund to plan for and implement programs to collect,~~
2 ~~transport and manage white goods. Units of local government may~~
3 ~~apply jointly for financial assistance under this Section.~~

4 ~~Applications for such financial assistance shall be~~
5 ~~submitted to the Agency and must provide a description of:~~

6 ~~(A) the area to be served by the program;~~

7 ~~(B) the white goods intended to be included in the~~
8 ~~program;~~

9 ~~(C) the methods intended to be used for collecting~~
10 ~~and receiving materials;~~

11 ~~(D) the property, buildings, equipment and~~
12 ~~personnel included in the program;~~

13 ~~(E) the public education systems to be used as part~~
14 ~~of the program;~~

15 ~~(F) the safety and security systems that will be~~
16 ~~used;~~

17 ~~(G) the intended processing methods for each white~~
18 ~~goods type;~~

19 ~~(H) the intended destination for final material~~
20 ~~handling location; and~~

21 ~~(I) any staging sites used to handle collected~~
22 ~~materials, the activities to be performed at such sites~~
23 ~~and the procedures for assuring removal of collected~~
24 ~~materials from such sites.~~

25 ~~The application may be amended to reflect changes in~~
26 ~~operating procedures, destinations for collected materials, or~~

1 ~~other factors.~~

2 ~~Financial assistance shall be awarded for a State fiscal~~
3 ~~year, and may be renewed, upon application, if the Agency~~
4 ~~approves the operation of the program.~~

5 ~~(c) All materials collected or received under a program~~
6 ~~operated with financial assistance under this Section shall be~~
7 ~~recycled whenever possible. Treatment or disposal of collected~~
8 ~~materials are not eligible for financial assistance unless the~~
9 ~~applicant shows and the Agency approves which materials may be~~
10 ~~treated or disposed of under various conditions.~~

11 ~~Any revenue from the sale of materials collected under such~~
12 ~~a program shall be retained by the unit of local government and~~
13 ~~may be used only for the same purposes as the financial~~
14 ~~assistance under this Section.~~

15 ~~(c) (f)~~ The Agency is authorized to adopt rules necessary
16 or appropriate to the administration of this Section.

17 (d) No rulemaking authority. Notwithstanding any other
18 rulemaking authority that may exist, neither the Governor nor
19 any agency or agency head under the jurisdiction of the
20 Governor has any authority to make or promulgate rules to
21 implement or enforce the provisions of this amendatory Act of
22 the 95th General Assembly. If, however, the Governor believes
23 that rules are necessary to implement or enforce the provisions
24 of this amendatory Act of the 95th General Assembly, the
25 Governor may suggest rules to the General Assembly by filing
26 them with the Clerk of the House and Secretary of the Senate

1 and by requesting that the General Assembly authorize such
2 rulemaking by law, enact those suggested rules into law, or
3 take any other appropriate action in the General Assembly's
4 discretion. Nothing contained in this amendatory Act of the
5 95th General Assembly shall be interpreted to grant rulemaking
6 authority under any other Illinois statute where such authority
7 is not otherwise explicitly given. For the purposes of this
8 subsection, "rules" is given the meaning contained in Section
9 1-70 of the Illinois Administrative Procedure Act, and "agency"
10 and "agency head" are given the meanings contained in Sections
11 1-20 and 1-25 of the Illinois Administrative Procedure Act to
12 the extent that such definitions apply to agencies or agency
13 heads under the jurisdiction of the Governor.

14 ~~(g) (Blank).~~

15 (Source: P.A. 91-798, eff. 7-9-00.)

16 (415 ILCS 5/22.28b new)

17 Sec. 22.28b. Promotion of the recycling of white goods.

18 (a) The White Goods Disposal Fund and the White Goods
19 Recycling Fund are created as special funds in the State
20 treasury. All fees collected under this Section and all
21 penalties or punitive damages for violations of this Section
22 and under Sections 22.28 and 22.28a must be deposited into the
23 Funds as follows:

24 (1) 40% is to be deposited into the White Goods
25 Disposal Fund and is available to the Agency for

1 enforcement of subsection (a) of Section 22.28.

2 (2) 60% is to be deposited into the White Goods
3 Recycling Fund and is available to the Department of
4 Commerce and Economic Opportunity for grants to directly
5 offset the energy costs of businesses that, in any given
6 year, manufacture more than 300,000 tons of products for
7 sale that are composed of at least 80% post-consumer
8 recycled content and pre-consumer recycled content by
9 weight or volume. The Department shall establish
10 guidelines for solicitation of grants under this Section no
11 later than October 1, 2008. Applications for assistance
12 shall be filed with the Department on forms provided by the
13 Department and shall set forth such information as may be
14 required by the Department. The Department shall evaluate
15 the application and notify the applicant of the
16 qualification or non-qualification of the application
17 within 45 days after the deadline established by the
18 Department for receipt of applications.

19 Every 2 years, the Agency and the Department shall each
20 report to the Governor and to the General Assembly on its
21 activities relating to the White Goods Disposal Fund and the
22 White Goods Recycling Fund.

23 (b) Each retailer who sells a new or used white good at
24 retail in this State shall collect from the retail customer a
25 white-good-disposal fee of \$8. The retailer may retain \$2 of
26 the fee if the retailer provides white good consumers with

1 information identifying the white goods that must be recycled
2 under this Section and partners with the United States
3 Environmental Protection Agency Responsible Appliance Disposal
4 Program. The retailer shall pay the \$8 fee or, where the
5 retailer qualifies to retain \$2 of the fee, \$6 to the
6 Department of Revenue for deposit into the White Goods Disposal
7 Fund and the White Goods Recycling Fund as designated in this
8 Section. The retailers shall collect the white goods disposal
9 fee from the purchaser by adding the fee to the selling price
10 of the white good. The fee must be stated as a distinct item
11 separate and apart from the selling price of the white good,
12 and is not includable in the gross receipts of the retailer
13 subject to the Retailers' Occupation Tax Act, the Use Tax Act,
14 or any locally imposed retailers' occupation tax. The
15 white-goods-disposal fee constitutes a debt owed by the
16 retailer to this State. The fee under this Section does not
17 apply to mail-order sales.

18 (c) Each retailer of white goods who maintains a place of
19 business in this State must make a return to the Department of
20 Revenue on a quarter-annual basis, with the return for January,
21 February, and March of a given year being due by April 30 of
22 that year; with the return for April, May, and June of a given
23 year being due by July 31 of that year; with the return for
24 July, August, and September of a given year being due by
25 October 31 of that year; and with the return for October,
26 November, and December of a given year being due by January 31

1 of the following year. Each return made to the Department of
2 Revenue must contain the following:

3 (1) the name of the retailer;

4 (2) the address of the retailer's principal place of
5 business and the address of the principal place of business
6 (if that is a different address) from which the retailer
7 engages in the business of making retail sales of white
8 goods;

9 (3) the total number of white goods sold at retail in
10 the preceding calendar quarter;

11 (4) the total amount of white-goods-disposal fees
12 collected in the preceding calendar quarter;

13 (5) if the retailer retains \$2 of the disposal fee, the
14 retailer shall provide proof of the information it provides
15 to consumers identifying the white goods that must be
16 recycled under this Section and proof of participation in
17 the United States Environmental Protection Agency
18 Responsible Appliance Disposal Program; and

19 (6) any other information that the Department of
20 Revenue reasonably requires.

21 Notwithstanding any other provision of law concerning the
22 time within which a retailer may file his or her return, in the
23 case of any retailer who ceases to engage in the retail sale of
24 white goods, the retailer must file a final return under this
25 Section with the Department of Revenue not more than one
26 calendar month after discontinuing that business.

1 (d) All the provisions of Sections 4, 5, 5a, 5b, 5c, 5d,
2 5e, 5f, 5g, 5i, 5j, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, and 13 of
3 the Retailers' Occupation Tax Act that are not inconsistent
4 with this Section apply, as far as practical, to the fee
5 imposed by subsection (b) of this Section to the same extent as
6 if those provisions were included in this Section. References
7 in the incorporated Sections of the Retailers' Occupation Tax
8 Act to retailers, to sellers, or to persons engaged in the
9 business of selling tangible personal property mean retailers
10 of white goods.

11 (d) The Department of Revenue may adopt and enforce any
12 reasonable rule to administer and enforce the fee imposed by
13 subsection (b) of this Section.

14 Whenever the Department of Revenue is required to provide
15 notice to a retailer under this Section, the notice may be
16 personally served or given by United States certified or
17 registered mail, addressed to the retailer or taxpayer
18 concerned at his or her last known address, and proof of this
19 mailing is sufficient for the purposes of this Section. In the
20 case of a notice of hearing, the Department must mail the
21 notice at least 7 days prior to the date fixed for the hearing.

22 All hearings provided by the Department of Revenue under
23 this Section with respect to or concerning a taxpayer having
24 his or her principal place of business in this State other than
25 in Cook County shall be held at the Department's office nearest
26 to the location of the taxpayer's principal place of business.

1 If the taxpayer has his or her principal place of business in
2 Cook County, then the hearing must be held in Cook County. If
3 the taxpayer does not have his or her principal place of
4 business in this State, then the hearing must be held in
5 Sangamon County.

6 If any proceeding under this Section has been begun by the
7 Department of Revenue or by a person subject thereto and that
8 person subsequently dies or becomes a person under legal
9 disability before the proceeding has been concluded, then the
10 legal representative of the deceased person or person under
11 legal disability shall notify the Department of Revenue of the
12 death or legal disability. The Department must substitute the
13 legal representative, as such, in place of and for the person.
14 Within 20 days after notice to the legal representative of the
15 time fixed for that purpose, the proceeding may proceed in all
16 respects and with like effect as though the person had not died
17 or become a person under legal disability.

18 (e) The Illinois Administrative Procedure Act is expressly
19 adopted and applies to all administrative rules and procedures
20 of the Department of Revenue under this Section, except that:
21 (1) paragraph (b) of Section 4 of the Illinois Administrative
22 Procedure Act does not apply to final orders, decisions, and
23 opinions of the Department of Revenue; (2) subparagraph (a)(2)
24 of Section 4 of the Illinois Administrative Procedure Act does
25 not apply to forms established by the Department of Revenue for
26 use under this Section; and (3) the provisions of Section 13 of

1 the Illinois Administrative Procedure Act regarding proposals
2 for decision are excluded and not applicable to the Department
3 of Revenue under this Section.

4 (f) The circuit court of any county in which a hearing is
5 held has the power to review all final administrative decisions
6 of the Department of Revenue in administering the fee imposed
7 under subsection (b) of this Section. If, however, the
8 administrative proceeding that is to be reviewed judicially is
9 a claim for refund proceeding commenced under this Act and
10 Section 2a of the State Officers and Employees Money
11 Disposition Act, the circuit court having jurisdiction over the
12 action for judicial review under this Section and under the
13 Administrative Review Law is the same court that entered the
14 temporary restraining order or preliminary injunction that is
15 provided for in that Section 2a, and that enables the claim
16 proceeding to be processed and disposed of as a claim for
17 refund proceeding other than as a claim for credit proceeding.

18 The provisions of the Administrative Review Law apply to
19 and govern all proceedings for the judicial review of final
20 administrative decisions of the Department of Revenue under
21 this Section. The term "administrative decision" is defined as
22 in Section 3-101 of the Code of Civil Procedure.

23 Service of summons issued in any action to review a final
24 administrative decision upon the Director or Assistant
25 Director of Revenue shall be service upon the Department of
26 Revenue. The Department of Revenue shall certify the record of

1 its proceedings if the taxpayer pays to it the sum of \$0.75 per
2 page of testimony taken before the Department of Revenue and
3 \$0.25 per page of all other matters contained in the record,
4 except that these charges may be waived if the Department of
5 Revenue is satisfied that the aggrieved party cannot afford to
6 pay these charges.

7 (g) Any retailer who fails to collect the fee required
8 under subsection (b) is guilty of a petty offense as is subject
9 to a fine of \$100.

10 Any retailer who fails to make a return or who makes a
11 fraudulent return or who willfully violates any rule or
12 regulation of the Department of Revenue for the administration
13 and enforcement of the fee imposed by this Section is guilty of
14 a Class 4 felony.

15 (h) For the purpose of this Section, "white good" has the
16 meaning set forth in Section 22.28.

17 Section 99. Effective date. This Act takes effect upon
18 becoming law.