



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB2016

Introduced 2/7/2008, by Sen. Debbie DeFrancesco Halvorson

SYNOPSIS AS INTRODUCED:

30 ILCS 105/5.708 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 recyclable components have been removed. Creates the White Goods Management Fund as a special fund in the State treasury, and provides that moneys in the Fund 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 \$6 of that fee to the Department of Revenue for deposit into the White Goods Management Fund. Sets forth provisions for the fee collections and returns by retailers. Effective immediately.

LRB095 18683 BDD 44782 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 Section 5.708 as follows:

6 (30 ILCS 105/5.708 new)

7 Sec. 5.708. The White Goods Management Fund.

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

10 (415 ILCS 5/22.28) (from Ch. 111 1/2, par. 1022.28)

11 Sec. 22.28. White goods.

12 (a) Beginning July 1, 1994, no person shall knowingly offer
13 for collection or collect white goods for the purpose of
14 disposal by landfilling unless the white good components and
15 recyclable components have been removed.

16 (b) Beginning July 1, 1994, no owner or operator of a
17 landfill shall accept any white goods for final disposal,
18 except that white goods may be accepted if:

19 (1) the landfill participates in the Industrial
20 Materials Exchange Service by communicating the
21 availability of white goods;

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

3 (3) if white good components are removed from the white
4 goods at the landfill, a site operating plan satisfying
5 this Act has been approved under the site operating permit
6 and the conditions of such operating plan are met ; and

7 (4) prior to final disposal, any recyclable components
8 have been removed.

9 (c) For the purposes of this Section:

10 (1) "White goods" shall include all discarded
11 refrigerators, ranges, water heaters, freezers, air
12 conditioners, humidifiers and other similar domestic and
13 commercial large appliances.

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

15 (i) any chlorofluorocarbon refrigerant gas;

16 (ii) any electrical switch containing mercury;

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

20 (iv) any fluorescent lamp that contains mercury.

21 (3) "Recyclable components" include components of
22 white goods that are commonly recycled as determined by the
23 Agency.

24 (d) The Agency is authorized to provide financial
25 assistance to units of local government from the Solid Waste
26 Management Fund to plan for and implement programs to collect,

1 transport and manage white goods. Units of local government may
2 apply jointly for financial assistance under this Section.

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

5 (A) the area to be served by the program;

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

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

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

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

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

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

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

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

24 The application may be amended to reflect changes in
25 operating procedures, destinations for collected materials, or
26 other factors.

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

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

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

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

16 (g) (Blank).

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

18 (415 ILCS 5/22.28b new)

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

20 (a) The White Goods Management Fund is created as a special
21 fund in the State treasury. All fees collected under this
22 Section and all penalties or punitive damages for violations of
23 this Section and under Sections 22.28 and 22.28a must be
24 deposited into the Fund. Subject to appropriation, the moneys
25 in the Fund are allocated as follows:

1 (1) 38% is available to the Agency for the recovery of
2 costs that are expended under subsection (d) of Section
3 22.28 and for the administration of the Fund and the
4 Industrial Materials Exchange Service;

5 (2) 2% is available to the Board for the administration
6 of its activities relating to white goods; and

7 (3) 60% is available for grants to directly offset the
8 energy costs of businesses that manufacture products for
9 sale that are composed of at least 80% post-consumer
10 recycled content or pre-consumer recycled content by
11 weight or volume.

12 Every 2 years, the Agency shall report to the Governor and
13 to the General Assembly on its activities relating to the Fund.

14 (b) Each retailer who sells a new or used white good at
15 retail in this State shall collect from the retail customer a
16 white-good-disposal fee of \$8. From the fee collected, the
17 retailer shall pay \$6 to the Department of Revenue for deposit
18 into the White Goods Management Fund, and the retailer may
19 retain \$2 for costs associated with the retailer's obligations
20 under this Section. The retailers shall collect the white goods
21 disposal fee from the purchaser by adding the fee to the
22 selling price of the white good. The fee must be stated as a
23 distinct item separate and apart from the selling price of the
24 white good, and is not includable in the gross receipts of the
25 retailer subject to the Retailers' Occupation Tax Act, the Use
26 Tax Act, or any locally imposed retailers' occupation tax. The

1 white-goods-disposal fee constitutes a debt owed by the
2 retailer to this State. The fee under this Section does not
3 apply to mail-order sales.

4 (c) Each retailer of white goods who maintains a place of
5 business in this State must make a return to the Department of
6 Revenue on a quarter-annual basis, with the return for January,
7 February, and March of a given year being due by April 30 of
8 that year; with the return for April, May, and June of a given
9 year being due by July 31 of that year; with the return for
10 July, August, and September of a given year being due by
11 October 31 of that year; and with the return for October,
12 November, and December of a given year being due by January 31
13 of the following year. Each return made to the Department of
14 Revenue must state the following:

15 (1) the name of the retailer;

16 (2) the address of the retailer's principal place of
17 business and the address of the principal place of business
18 (if that is a different address) from which the retailer
19 engages in the business of making retail sales of white
20 goods;

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

23 (4) the total amount of white-goods-disposal fees
24 collected in the preceding calendar quarter; and

25 (5) any other information that the Department of
26 Revenue reasonably requires.

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

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

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

20 Whenever the Department of Revenue is required to provide
21 notice to a retailer under this Section, the notice may be
22 personally served or given by United States certified or
23 registered mail, addressed to the retailer or taxpayer
24 concerned at his or her last known address, and proof of this
25 mailing is sufficient for the purposes of this Section. In the
26 case of a notice of hearing, the Department must mail the

1 notice at least 7 days prior to the date fixed for the hearing.

2 All hearings provided by the Department of Revenue under
3 this Section with respect to or concerning a taxpayer having
4 his or her principal place of business in this State other than
5 in Cook County shall be held at the Department's office nearest
6 to the location of the taxpayer's principal place of business.
7 If the taxpayer has his or her principal place of business in
8 Cook County, then the hearing must be held in Cook County. If
9 the taxpayer does not have his or her principal place of
10 business in this State, then the hearing must be held in
11 Sangamon County.

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

24 (e) The Illinois Administrative Procedure Act is expressly
25 adopted and applies to all administrative rules and procedures
26 of the Department of Revenue under this Section, except that:

1 (1) paragraph (b) of Section 4 of the Illinois Administrative
2 Procedure Act does not apply to final orders, decisions, and
3 opinions of the Department of Revenue; (2) subparagraph (a)(2)
4 of Section 4 of the Illinois Administrative Procedure Act does
5 not apply to forms established by the Department of Revenue for
6 use under this Section; and (3) the provisions of Section 13 of
7 the Illinois Administrative Procedure Act regarding proposals
8 for decision are excluded and not applicable to the Department
9 of Revenue under this Section.

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

24 The provisions of the Administrative Review Law apply to
25 and govern all proceedings for the judicial review of final
26 administrative decisions of the Department of Revenue under

1 this Section. The term "administrative decision" is defined as
2 in Section 3-101 of the Code of Civil Procedure.

3 Service of summons issued in any action to review a final
4 administrative decision upon the Director or Assistant
5 Director of Revenue shall be service upon the Department of
6 Revenue. The Department of Revenue shall certify the record of
7 its proceedings if the taxpayer pays to it the sum of \$0.75 per
8 page of testimony taken before the Department of Revenue and
9 \$0.25 per page of all other matters contained in the record,
10 except that these charges may be waived if the Department of
11 Revenue is satisfied that the aggrieved party cannot afford to
12 pay these charges.

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

16 Any retailer who fails to make a return or who makes a
17 fraudulent return or who willfully violates any rule or
18 regulation of the Department of Revenue for the administration
19 and enforcement of the fee imposed by this Section is guilty of
20 a Class 4 felony.

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

23 Section 99. Effective date. This Act takes effect upon
24 becoming law.