



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB3442

Introduced 2/7/2012, by Sen. Terry Link

SYNOPSIS AS INTRODUCED:

New Act
5 ILCS 80/4.27

Creates the Plastic Bag and Film Recycling Act. Requires manufacturers of plastic carryout bags to register with the Illinois Environmental Protection Agency and pay to the Agency an initial registration fee and annual registration renewal fee. Prohibits a manufacturer from selling or offering to sell plastic carryout bag in the State unless the manufacturer is registered with the Agency and its name is printed on the plastic carryout bags it manufactures. Requires each manufacturer to develop, and submit to the Agency, a plan to support the collection and recycling of plastic carryout bags and plastic film product wrap. Prohibits retailers from purchasing plastic carryout bags from manufacturers under certain circumstances. Sets forth duties of the Agency. Creates penalties for violations of the Act. Encourages manufacturers to include recycled content in the plastic carryout bags that they produce. Requires certain reports to be filed with the General Assembly. Makes the Act inapplicable in units of local government with a population of over 2,000,000. Specifies that the Plastic Bag and Film Recycling Act controls in the event of a conflict with another Act. Denies home rule powers. Amends the Regulatory Sunset Act to provide for the repeal of the Plastic Bag and Film Recycling Act on October 1, 2017. Effective immediately.

LRB097 17154 JDS 62352 b

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

1 AN ACT concerning safety.

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 Plastic Bag and Film Recycling Act.

6 Section 5. Findings and purpose.

7 (a) The General Assembly finds all of the following:

8 (1) Senate Bill 303 of the 95th General Assembly, as
9 amended, became law in August of 2007 (effective January 1,
10 2008) and was referred to as the Plastic Bag Recycling Act
11 (P.A. 95-268).

12 (2) The Plastic Bag Recycling Act required a Task Force
13 to be assembled to administer a pilot collection program
14 for plastic bags and plastic film within the confines of
15 Lake County, Illinois that would engage retail businesses
16 that operated stores of 10,000 square feet or greater to
17 voluntarily participate in the pilot program, and, in May
18 of 2010, the Task Force submitted a report of the pilot
19 program findings to the Governor and the leadership of the
20 General Assembly.

21 (3) The Task Force findings referred to data contained
22 in the Illinois Commodity Waste Generation and
23 Characterization Study commissioned in 2008 by the

1 Illinois Department of Commerce and Economic Opportunity
2 which indicate that nearly 500,000 tons of plastic film
3 material is generated each year in Illinois that has a
4 potential market value of \$100 million; however, 98.5% of
5 this plastic film is landfilled. The Study also found that
6 plastic grocery bags represent only about 15% of all
7 plastic film disposed of in Illinois landfills, which led
8 the Task Force to focus attention on not only the recovery
9 of plastic grocery bags, but also the recovery of plastic
10 film product wrap that is used to package numerous consumer
11 products.

12 (4) The Task Force concluded that the disposal of
13 plastic bags and film represents a tremendous waste of
14 non-renewable resources that can be recycled, that
15 Illinois lacked an adequate collection infrastructure, and
16 that participating retailers responded favorably overall
17 to the pilot program and intended to continue collecting
18 plastic bags from their customers, with the majority of
19 them indicating that their overall costs to operate the
20 collection program were minimal and were built into daily
21 operational procedures.

22 (5) Markets for plastic bags and film do exist, and, if
23 this material can be successfully diverted from final
24 disposal, it has the potential to conserve a non-renewable
25 resource by reusing it as a feedstock for new plastic bags
26 and plastic lumber, as well as for other beneficial uses.

1 In addition to conserving resources, the recycling of
2 plastic bags and film reduces air, land, and water
3 pollution.

4 (6) The 2010 Recycling Economic Information Study
5 Update for Illinois estimates that the plastics industry
6 employs approximately 3,114 people in Illinois, generating
7 an annual payroll of \$98,887,000, and, based on this data,
8 it is estimated that a statewide plastic bag and film
9 recycling program would generate over 300 jobs with an
10 estimated payroll of \$9,500,000.

11 (7) The plastic bag industry has taken great strides in
12 promoting increased recycling of plastic bags in the State,
13 and this Act recognizes that continued and increased
14 responsibility of industry to support increased plastic
15 bag recycling is in the State's and the public's interests.

16 (b) The purpose of this Act is to set forth the procedures
17 by which the collection and recycling of plastic bags and film
18 will be accomplished in Illinois with the voluntary
19 participation of the retail community.

20 Section 10. Definitions. As used in this Act:

21 "Agency" means the Illinois Environmental Protection
22 Agency.

23 "Consumer" means any person who makes a purchase at retail.

24 "Distributor" or "wholesaler" means a person who buys or
25 otherwise acquires plastic bags from another source and sells

1 or offers to sell those plastic bags, either in bulk or
2 otherwise, to retailers in Illinois.

3 "Manufacturer" means a manufacturer of plastic carryout
4 bags used or distributed in Illinois.

5 "Percent post-consumer recycled content" means the
6 percentage of recycled plastic carryout bags, plastic film
7 product wrap, or both, that is present in a new plastic
8 carryout bag following an original use of the bag or wrap by a
9 consumer.

10 "Person" means any individual, partnership,
11 co-partnership, firm, company, corporation, association, joint
12 stock company, trust, estate, political subdivision, State
13 agency, or any other legal entity, or their legal
14 representative, agent, or assigns.

15 "Plastic carryout bag" means any polyethylene bag that is
16 provided to a consumer by a retailer at checkout.

17 "Plastic film product wrap" means a polyethylene wrap used
18 to cover, wrap, or otherwise package consumer goods, such as
19 paper towels, bathroom tissue, cases of sodas, diapers, and
20 other dry goods.

21 "Recycling" means any process by which plastic carryout
22 bags, plastic film product wrap, or both, are collected and
23 processed and returned to the economic mainstream in the form
24 of raw materials or products. "Recycling" does not include
25 energy recovery or energy generation by means of combusting
26 plastic carryout bags and plastic film product wrap, and it

1 does not include any use within the permitted boundaries of a
2 municipal solid waste landfill unit.

3 "Retailer" means a person engaged in the business of making
4 sales at retail that generates occupation or use tax revenue.

5 Section 15. Registration and fee required.

6 (a) Beginning July 1, 2013, each manufacturer shall
7 register with the Agency annually and, at the time of
8 registration, shall pay an annual registration fee of \$500 to
9 the Agency. Registrations and registration fees are due by July
10 1 of the year for which they are submitted and shall remain
11 valid until July 1 of the following year. A manufacturer shall
12 not be considered registered until the Agency receives a
13 complete registration form, the required registration fee, and
14 the recycling plan. Registrations must be submitted on forms
15 and in a format prescribed by the Agency. The Agency shall
16 deposit all registration fees collected under this Section into
17 the Environmental Protection Permit and Inspection Fund.

18 (b) No manufacturer shall sell or offer to sell plastic
19 carryout bags for use or distribution in Illinois unless the
20 manufacturer is registered with the Agency and has paid the
21 required registration fee in accordance with subsection (a) of
22 this Section.

23 Section 20. Manufacturer label required. Beginning July 1,
24 2013, no manufacturer shall sell or offer to sell plastic

1 carryout bags in Illinois unless the name of the manufacturer
2 is printed on the bag so that the manufacturer's identity is
3 readily identifiable.

4 Section 25. Plastic carryout bag and plastic film product
5 wrap recycling plan.

6 (a) No later than July 1, 2013, each manufacturer shall
7 develop and thereafter maintain a plan for supporting the
8 collection and recycling of plastic carryout bags and plastic
9 film product wrap and shall submit a copy of the plan to the
10 Agency for posting to the Agency's website. Manufacturers may
11 develop and implement the plan individually, or jointly with
12 other manufacturers. The plan shall:

13 (1) describe the recycling program to be implemented
14 throughout the State, including collection locations,
15 events, or both;

16 (2) include a detailed description as to how the plan
17 will be implemented;

18 (3) describe the performance measures that will be used
19 to document collection efforts for plastic carryout bags
20 and plastic film product wrap;

21 (4) include a public education plan on the reuse and
22 recycling of plastic carryout bags and plastic film product
23 wrap; and

24 (5) include the mailing address or email address of the
25 manufacturer for the submission of comments regarding the

1 plan.

2 (b) No later than August 1, 2013 or 30 days after receiving
3 the plan, whichever is later, the Agency shall post the plan on
4 its website. Within 30 days after the plan is posted on the
5 Agency's website, a person may provide written comments to the
6 manufacturer regarding the plan. The manufacturer whose plan is
7 commented on shall respond in writing to the person making the
8 comments within 30 days after receipt of the comments, and may
9 make revisions to the plan if appropriate. If a plan receives
10 no comments within the 30-day comment period it shall be
11 considered final after the comment period ends. If comments are
12 received on a plan it shall be considered final after the
13 comments have been responded to in writing by the manufacturer
14 and a revised plan, if applicable, has been submitted, no later
15 than October 1, 2013, to the Agency for posting on its website
16 no later than November 1, 2013.

17 (c) A manufacturer may prepare a revised plan and submit it
18 to the Agency, for posting on the Agency's website no later
19 than 30 days after receipt by the Agency, in response to
20 changed circumstances or needs.

21 (d) Each manufacturer is responsible for all costs
22 associated with the development and implementation of its plan.

23 (e) By April 1, 2014, and by April 1 of each year
24 thereafter, each manufacturer shall submit a report to the
25 Agency that includes, for the previous calendar year, a
26 description of the manufacturer's collection and recycling

1 program, including, but not limited to, the collection
2 locations for plastic carryout bags and plastic film product
3 wrap, the processing locations for the collected plastic
4 carryout bags and plastic film product wrap, the weight in
5 pounds of plastic carryout bags and plastic film product wrap
6 collected and processed for recycling, the weight in pounds of
7 plastic carryout bags the manufacturer sold for use or
8 distribution in Illinois, and samples of the education
9 materials provided to consumers. Beginning with the annual
10 report due April 1, 2014, the report shall also state the
11 amounts of pre-consumer recycled content and post-consumer
12 recycled content in the plastic carryout bags the manufacturer
13 sold for use or distribution in Illinois.

14 (f) A manufacturer shall conduct and document due diligence
15 assessments of any person with whom the manufacturer contracts
16 or arranges for any one or more of the following: a recycling
17 collection location; collection, processing or transportation
18 of plastic carryout bags or plastic film product wrap; or
19 recycling of plastic carryout bags and plastic film product
20 wrap.

21 (g) A manufacturer may fulfill the requirements of this
22 Section either individually or in participation with other
23 manufacturers.

24 Section 30. Requirements applicable to retailers.

25 (a) Beginning January 1, 2014, no retailer shall purchase

1 plastic carryout bags directly from a manufacturer for use or
2 distribution in Illinois unless the manufacturer of the bags is
3 registered with the Agency in accordance with Section 15.

4 (b) Beginning January 1, 2014, no retailer shall purchase
5 plastic carryout bags for use or distribution in Illinois
6 directly from a bag manufacturer unless the manufacturer's plan
7 is posted on the Agency's website in accordance with Section
8 25.

9 (c) Beginning January 1, 2014, no retailer shall purchase
10 plastic carryout bags for use or distribution in Illinois
11 directly from a bag manufacturer unless the name of the
12 manufacturer is printed on the bag so that the manufacturer's
13 identity is readily identifiable in accordance with Section 20.

14 (d) Retailers that have implemented a recycling program
15 independent of this Act which allows consumers to bring their
16 plastic bags and film product wrap to the store for recycling,
17 shall be allowed to continue to operate their programs
18 independent of this Act. Such retailers can report their
19 recycling status to the Agency for inclusion in the list posted
20 on its website of retailers who are recycling in Illinois. In
21 addition, manufacturers can include these retailers in their
22 recycling plans submitted to the Agency pursuant to an
23 agreement between the retailer and the manufacturer.

24 (e) Beginning March 1, 2015, no retailer shall purchase
25 plastic carryout bags unless the bag is labeled and is
26 compliant with Section 40.

1 Section 31. Requirements applicable to distributors and
2 wholesalers. Beginning January 1, 2014, a distributor or
3 wholesaler shall not purchase plastic carryout from a
4 manufacturer for use or distribution to a retailer as defined
5 in this Act in Illinois unless the bag manufacturer is
6 registered with the Agency in accordance with Section 15 and
7 complies with Sections 20 and 25.

8 Section 35. Responsibilities of the Agency.

9 (a) Beginning September 1, 2013, for the benefit of
10 assisting consumers who wish to find collection locations for
11 recycling plastic bags, the Agency shall post on its website
12 the location of all collection sites identified to the Agency
13 by manufacturers in their plans and annual reports.

14 (b) Beginning September 1, 2013, the Agency shall post on
15 its website the list of manufacturers that are registered in
16 accordance with Section 15.

17 (c) Beginning September 1, 2013, the Agency shall post on
18 its website the list of manufacturers for which the Agency has
19 received a plan in accordance with Section 25.

20 (d) Beginning May 1, 2014, the Agency shall post on its
21 website (i) the list of manufacturers for which the Agency has
22 received an annual report in accordance with Section 25 and
23 (ii) copies of the annual reports within 30 days after receipt.

1 Section 40. Recycled content goal.

2 (a) Beginning January 1, 2014, manufacturers selling
3 plastic carryout bags for use or distribution in Illinois may
4 label each bag to identify the recycled content in the bag.

5 (b) Beginning January 1, 2015, manufacturers of plastic
6 carryout bags shall strive to manufacture the bag to include at
7 least 30% total recycled content.

8 Section 50. Penalties. Any manufacturer, distributor,
9 wholesaler, or retailer who violates any provision of this Act
10 or fails to perform any duty under this Act shall be liable for
11 a civil penalty not to exceed \$1,000 and an additional civil
12 penalty not to exceed \$100 per day for each day the violation
13 continues. The penalties provided for in this Section may be
14 recovered in a civil action brought in the county in which the
15 violation occurred and in the name of the People of the State
16 of Illinois by either the State's Attorney of the county in
17 which the violation occurred or the Attorney General. Any funds
18 collected under this Section in an action in which the Attorney
19 General has prevailed shall be deposited in the Environmental
20 Protection Trust Fund, to be used in accordance with the
21 provisions of the Environmental Protection Trust Fund Act.

22 Section 55. Report to the General Assembly. No later than
23 October 1, 2016, the Director of the Agency shall submit a
24 report to the General Assembly describing the results of the

1 plastic carryout bag and plastic film wrap collection and
2 recycling program on a statewide basis. The report shall also
3 contain recommendations regarding whether the program shall be
4 made permanent and any modifications to improve its function
5 and efficiency.

6 Section 60. Applicability.

7 (a) The provisions of this Act do not apply within the
8 jurisdiction of a unit of local government with a population of
9 over 2,000,000.

10 (b) In the event of a conflict between this Act and any
11 other law, this Act shall control.

12 Section 65. Home rule. Except in home rule units with a
13 population of over 2,000,000, the regulation of the collection
14 and recycling of plastic carryout bags and film is an exclusive
15 power and function of the State. A home rule unit, other than a
16 home rule unit with a population of over 2,000,000, may not
17 regulate the collection and recycling of plastic carryout bags
18 and film. This Section is a denial and limitation of home rule
19 powers and functions under subsection (h) of Section 6 of
20 Article VII of the Illinois Constitution.

21 Section 70. The Regulatory Sunset Act is amended by
22 changing Section 4.27 as follows:

1 (5 ILCS 80/4.27)

2 Sec. 4.27. Acts repealed on January 1, 2017 and October 1,
3 2017.

4 (a) The following Acts are repealed on January 1, 2017:

5 The Illinois Optometric Practice Act of 1987.

6 The Clinical Psychologist Licensing Act.

7 The Boiler and Pressure Vessel Repairer Regulation Act.

8 Articles II, III, IV, V, V 1/2, VI, VIIA, VIIB, VIIC, XVII,

9 XXXI, XXXI 1/4, and XXXI 3/4 of the Illinois Insurance Code.

10 (b) The following Act is repealed on October 1, 2017:

11 The Plastic Bag and Film Recycling Act.

12 (Source: P.A. 94-787, eff. 5-19-06; 94-870, eff. 6-16-06;

13 94-956, eff. 6-27-06; 94-1076, eff. 12-29-06; 95-331, eff.

14 8-21-07; 95-876, eff. 8-21-08.)

15 Section 99. Effective date. This Act takes effect upon

16 becoming law.