



Sen. Terry Link

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1 AMENDMENT TO SENATE BILL 854

2 AMENDMENT NO. _____. Amend Senate Bill 854 by replacing
3 everything after the enacting clause with the following:

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

1 voluntarily participate in the pilot program, and, in May
2 of 2010, the Task Force submitted a report of the pilot
3 program findings to the Governor and the leadership of the
4 General Assembly.

5 (3) The Task Force findings referred to data contained
6 in the Illinois Commodity Waste Generation and
7 Characterization Study commissioned in 2008 by the
8 Illinois Department of Commerce and Economic Opportunity
9 which indicated that nearly 500,000 tons of plastic film
10 material is generated each year in Illinois that has a
11 potential market value of \$100 million; however, 98.5% of
12 this plastic film is landfilled. The Study also found that
13 plastic grocery bags represent only about 15% of all
14 plastic film disposed of in Illinois landfills, which led
15 the Task Force to focus attention on not only the recovery
16 of plastic grocery bags, but also the recovery of plastic
17 film product wrap that is used to package numerous consumer
18 products.

19 (4) The Task Force concluded that the disposal of
20 plastic bags and film represents a tremendous waste of
21 non-renewable resources that can be recycled, that
22 Illinois lacked an adequate collection infrastructure, and
23 that participating retailers responded favorably overall
24 to the pilot program and intended to continue collecting
25 plastic bags from their customers, with the majority of
26 them indicating that their overall costs to operate the

1 collection program were minimal and were built into daily
2 operational procedures.

3 (5) Markets for plastic bags and film do exist, and, if
4 this material can be successfully diverted from final
5 disposal, it has the potential to conserve a non-renewable
6 resource by reusing it as a feedstock for new plastic bags
7 and plastic lumber, as well as for other beneficial uses.
8 In addition to conserving resources, the recycling of
9 plastic bags and film reduces air, land, and water
10 pollution.

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

18 (7) The plastic bag industry has taken great strides in
19 promoting increased recycling of plastic bags in the State,
20 and this Act recognizes that continued and increased
21 responsibility of industry to support increased plastic
22 bag recycling is in the State's and the public's interests.

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

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

2 "Agency" means the Illinois Environmental Protection
3 Agency.

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

5 "Distributor" or "wholesaler" means a person who buys or
6 otherwise acquires plastic bags from another source and sells
7 or offers to sell those plastic bags, either in bulk or
8 otherwise, to retailers in Illinois.

9 "Manufacturer" means a manufacturer of plastic carryout
10 bags used or distributed in Illinois.

11 "Percent post-consumer recycled content" means the
12 percentage of recycled plastic carryout bags, plastic film
13 product wrap, or both, that is present in a new plastic
14 carryout bag following an original use of the bag or wrap by a
15 consumer.

16 "Person" means any individual, partnership,
17 co-partnership, firm, company, corporation, association, joint
18 stock company, trust, estate, political subdivision, State
19 agency, or any other legal entity, or their legal
20 representative, agent, or assigns.

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

23 "Plastic film product wrap" means a polyethylene wrap used
24 to cover, wrap, or otherwise package consumer goods, such as
25 paper towels, bathroom tissue, dry cleaning bags, newspaper

1 bags, cases of sodas, diapers, and other dry goods.

2 "Recycling" means any process by which plastic carryout
3 bags, plastic film product wrap, or both, are collected and
4 processed and returned to the economic mainstream in the form
5 of raw materials or products. "Recycling" does not include
6 energy recovery or energy generation by means of combusting
7 plastic carryout bags and plastic film product wrap, and it
8 does not include any use within the permitted boundaries of a
9 municipal solid waste landfill unit.

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

12 Section 15. Registration and fee required.

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

25 (b) No manufacturer shall sell or offer to sell plastic

1 carryout bags for use or distribution in Illinois unless the
2 manufacturer is registered with the Agency and has paid the
3 required registration fee in accordance with subsection (a) of
4 this Section.

5 (c) After registering a manufacturer, the Agency shall
6 immediately assign to that manufacturer a unique vendor number.

7 Section 20. Manufacturer label required. Beginning July 1,
8 2013, no manufacturer shall sell or offer to sell plastic
9 carryout bags in Illinois unless the name of the manufacturer
10 or the manufacturer's unique vendor number assigned by the
11 Agency pursuant to Section 15 is printed on the bag so that the
12 manufacturer's identity is readily identifiable.

13 Section 25. Plastic carryout bag and plastic film product
14 wrap recycling plan.

15 (a) No later than July 1, 2013, each manufacturer shall
16 develop and thereafter maintain a plan for supporting the
17 collection and recycling of plastic carryout bags and plastic
18 film product wrap and shall submit a copy of the plan to the
19 Agency for posting to the Agency's website. Manufacturers may
20 develop and implement the plan individually, or jointly with
21 other manufacturers or units of local government, retail
22 establishments, solid waste agencies, or any other entity they
23 deem appropriate. The plan shall:

24 (1) describe the recycling program to be implemented

1 throughout the State, including collection locations,
2 events, or both;

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

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

8 (4) include a public education plan on the reuse and
9 recycling of plastic carryout bags and plastic film product
10 wrap; and

11 (5) include the mailing address or email address of the
12 manufacturer for the submission of comments regarding the
13 plan.

14 (b) No later than August 1, 2013 or 30 days after receiving
15 the plan, whichever is later, the Agency shall post the plan on
16 its website. Within 30 days after the plan is posted on the
17 Agency's website, a person may provide written comments to the
18 manufacturer regarding the plan. The manufacturer whose plan is
19 commented on shall respond in writing to the person making the
20 comments within 30 days after receipt of the comments, and may
21 make revisions to the plan if appropriate. If a plan receives
22 no comments within the 30-day comment period, it shall be
23 considered final after the comment period ends. If comments are
24 received on a plan, it shall be considered final after the
25 comments have been responded to in writing by the manufacturer
26 and a revised plan, if applicable, has been submitted, no later

1 than October 1, 2013, to the Agency for posting on its website
2 no later than November 1, 2013.

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

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

9 (e) By April 1, 2014, and by April 1 of each year
10 thereafter, each manufacturer shall submit a report to the
11 Agency that includes, for the previous calendar year, a
12 description of the manufacturer's collection and recycling
13 program, including, but not limited to, the collection
14 locations for plastic carryout bags and plastic film product
15 wrap, the processing locations for the collected plastic
16 carryout bags and plastic film product wrap, the weight in
17 pounds of plastic carryout bags and plastic film product wrap
18 collected and processed for recycling, the weight in pounds of
19 plastic carryout bags the manufacturer sold for use or
20 distribution in Illinois, the percentage of plastic carryout
21 bags and plastic film product wrap collected and processed for
22 recycling based on the weight in pounds of plastic carryout
23 bags and plastic film product wrap collected and processed for
24 recycling and the weight in pounds of plastic carryout bags
25 sold for use or distribution in Illinois, and samples of the
26 education materials provided to consumers. Beginning with the

1 annual report due April 1, 2014, the report shall also state
2 the amounts of pre-consumer recycled content and post-consumer
3 recycled content in the plastic carryout bags the manufacturer
4 sold for use or distribution in Illinois. Additional
5 requirements for specific annual reports include:

6 (1) a demonstration in the annual report for calendar
7 year 2014 that 75% of the population in Illinois resides
8 within 10 miles of a plastic carryout bag and plastic film
9 product wrap collection site, and that collection sites are
10 located in at least 90% of Illinois counties;

11 (2) a demonstration in the annual report for calendar
12 year 2015 that 80% of the population in Illinois resides
13 within 10 miles of a plastic carryout bag and plastic film
14 product wrap collection site; and

15 (3) a demonstration in the annual report for calendar
16 year 2015 that the percentage of plastic carryout bags and
17 plastic film product wrap recycled increased by at least
18 12% from the recycling rate calculated in the annual report
19 for calendar year 2014. Notwithstanding the required
20 recycling rate increase specified in this item (3),
21 manufacturers are encouraged to work with units of local
22 government, retail establishments, solid waste agencies,
23 or other entities they deem appropriate to try to reach a
24 recycling rate increase of 20%.

25 If these additional requirements specified in items (1)
26 through (3) of this subsection (e) cannot be demonstrated in

1 the appropriate annual reports, the penalties under Section 50
2 of this Act shall be applicable.

3 (f) A manufacturer shall conduct and document due diligence
4 assessments of any person with whom the manufacturer contracts
5 or arranges for any one or more of the following: a recycling
6 collection location; collection, processing or transportation
7 of plastic carryout bags or plastic film product wrap; or
8 recycling of plastic carryout bags and plastic film product
9 wrap.

10 (g) A manufacturer may fulfill the requirements of this
11 Section either individually or in participation with other
12 manufacturers.

13 Section 30. Requirements applicable to retailers.

14 (a) Beginning January 1, 2014, no retailer shall purchase
15 plastic carryout bags directly from a manufacturer for use or
16 distribution in Illinois unless the manufacturer of the bags is
17 registered with the Agency in accordance with Section 15.

18 (b) Beginning January 1, 2014, no retailer shall purchase
19 plastic carryout bags for use or distribution in Illinois
20 directly from a bag manufacturer unless the manufacturer's plan
21 is posted on the Agency's website in accordance with Section
22 25.

23 (c) Beginning January 1, 2014, no retailer shall purchase
24 plastic carryout bags for use or distribution in Illinois
25 directly from a bag manufacturer unless the name of the

1 manufacturer or the manufacturer's unique vendor number
2 assigned by the Agency pursuant to Section 15 is printed on the
3 bag so that the manufacturer's identity is readily identifiable
4 in accordance with Section 20.

5 (d) Retailers that have implemented a recycling program
6 independent of this Act which allows consumers to bring their
7 plastic bags and film product wrap to the store for recycling
8 shall be allowed to continue to operate their programs
9 independent of this Act. Such retailers can report their
10 recycling status to the Agency for inclusion in the list posted
11 on its website of retailers who are recycling in Illinois. In
12 addition, manufacturers can include these retailers in their
13 recycling plans submitted to the Agency pursuant to an
14 agreement between the retailer and the manufacturer.

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

22 Section 35. Responsibilities of the Agency.

23 (a) Beginning September 1, 2013, for the benefit of
24 assisting consumers who wish to find collection locations for

1 recycling plastic bags, the Agency shall post on its website
2 the location of all collection sites identified to the Agency
3 by manufacturers in their plans and annual reports.

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

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

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

14 Section 40. Recycled content goal.

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

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

21 Section 50. Penalties.

22 (a) Any manufacturer, distributor, or wholesaler who
23 violates any provision of this Act or fails to perform any duty
24 under this Act shall be liable for a civil penalty not to

1 exceed \$1,000, as determined by the Agency.

2 (b) For a first offense, a retailer found to be in
3 violation of Section 30 shall be given 30 days to come into
4 compliance. For a second or subsequent offense, the penalty
5 specified in subsection (a) of this Section shall apply.

6 (c) The penalties provided for in this Section may be
7 recovered in a civil action brought in the county in which the
8 violation occurred and in the name of the People of the State
9 of Illinois by either the State's Attorney of the county in
10 which the violation occurred or the Attorney General. Any funds
11 collected under this Section in an action in which the Attorney
12 General has prevailed shall be deposited in the Environmental
13 Protection Trust Fund, to be used in accordance with the
14 provisions of the Environmental Protection Trust Fund Act.

15 Section 55. Report to the General Assembly. No later than
16 October 1, 2016, the Director of the Agency shall submit a
17 report to the General Assembly describing the results of the
18 plastic carryout bag and plastic film wrap collection and
19 recycling program on a statewide basis. The report shall also
20 contain recommendations regarding whether the program shall be
21 made permanent and any modifications to improve its function
22 and efficiency.

23 Section 60. Applicability.

24 (a) The provisions of this Act do not apply within the

1 jurisdiction of a unit of local government with a population of
2 over 2,000,000.

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

5 Section 65. Home rule.

6 (a) Except in a home rule unit with a population of over
7 2,000,000 or in a home rule municipality to which subsection
8 (c) of this Section applies, the regulation of the collection,
9 recycling, sale, and use of plastic carryout bags and film,
10 including any effort to regulate through the imposition of a
11 ban on those items, is an exclusive power and function of the
12 State. A home rule unit, other than a home rule unit with a
13 population of over 2,000,000 and other than a home rule unit to
14 which subsection (c) of this Section applies, may not regulate
15 the collection, recycling, sale, or use of plastic carryout
16 bags and film. This subsection (a) is a denial and limitation
17 of home rule powers and functions under subsection (h) of
18 Section 6 of Article VII of the Illinois Constitution.

19 (b) A home rule unit, other than a home rule unit with a
20 population of over 2,000,000, may not impose a fee or tax on
21 the collection, recycling, sale, or use of plastic carryout
22 bags and film. This subsection (b) is a denial and limitation
23 of home rule powers and functions under subsection (g) of
24 Section 6 of Article VII of the Illinois Constitution.

25 (c) A home rule municipality that had a plastic bag and

1 film take-back ordinance in effect on January 1, 2012 may
2 continue the program created by that ordinance, as in effect on
3 that date. However, that home rule unit municipality shall not
4 regulate the collection, recycling, sale, or use of plastic
5 carryout bags or film in a manner that is more restrictive than
6 is provided in that ordinance, as of January 1, 2012, or this
7 Act. This subsection (c) is a limitation under subsection (i)
8 of Section 6 of Article VII of the Illinois Constitution on the
9 concurrent exercise by that home rule unit of powers and
10 functions exercised by the State.

11 Section 70. The Regulatory Sunset Act is amended by
12 changing Section 4.27 as follows:

13 (5 ILCS 80/4.27)

14 Sec. 4.27. Acts repealed on January 1, 2017 and October 1,
15 2017.

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

17 The Illinois Optometric Practice Act of 1987.

18 The Clinical Psychologist Licensing Act.

19 The Boiler and Pressure Vessel Repairer Regulation Act.

20 Articles II, III, IV, V, V 1/2, VI, VIIA, VIIB, VIIC, XVII,
21 XXXI, XXXI 1/4, and XXXI 3/4 of the Illinois Insurance Code.

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

23 The Plastic Bag and Film Recycling Act.

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

1 94-956, eff. 6-27-06; 94-1076, eff. 12-29-06; 95-331, eff.
2 8-21-07; 95-876, eff. 8-21-08.)

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.".