



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

SB2224

Introduced 1/13/2016, by Sen. Terry Link

#### SYNOPSIS AS INTRODUCED:

New Act  
5 ILCS 80/4.31

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.

LRB099 16181 MGM 40507 b

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 indicated 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, dry cleaning bags, newspaper  
20 bags, cases of sodas, diapers, and 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, 2017, 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 (c) After registering a manufacturer, the Agency shall  
24 immediately assign to that manufacturer a unique vendor number.

1           Section 20. Manufacturer label required. Beginning July 1,  
2           2017, no manufacturer shall sell or offer to sell plastic  
3           carryout bags in Illinois unless the name of the manufacturer  
4           or the manufacturer's unique vendor number assigned by the  
5           Agency pursuant to Section 15 is printed on the bag so that the  
6           manufacturer's identity is readily identifiable.

7           Section 25. Plastic carryout bag and plastic film product  
8           wrap recycling plan.

9           (a) No later than July 1, 2017, each manufacturer shall  
10          develop and thereafter maintain a plan for supporting the  
11          collection and recycling of plastic carryout bags and plastic  
12          film product wrap and shall submit a copy of the plan to the  
13          Agency for posting to the Agency's website. Manufacturers may  
14          develop and implement the plan individually, or jointly with  
15          other manufacturers or units of local government, retail  
16          establishments, solid waste agencies, or any other entity they  
17          deem appropriate. The plan shall:

18                 (1) describe the recycling program to be implemented  
19                 throughout the State, including collection locations,  
20                 events, or both;

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

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

1           (4) include a public education plan on the reuse and  
2           recycling of plastic carryout bags and plastic film product  
3           wrap; and

4           (5) include the mailing address or email address of the  
5           manufacturer for the submission of comments regarding the  
6           plan.

7           (b) No later than August 1, 2017 or 30 days after receiving  
8           the plan, whichever is later, the Agency shall post the plan on  
9           its website. Within 30 days after the plan is posted on the  
10          Agency's website, a person may provide written comments to the  
11          manufacturer regarding the plan. The manufacturer whose plan is  
12          commented on shall respond in writing to the person making the  
13          comments within 30 days after receipt of the comments, and may  
14          make revisions to the plan if appropriate. If a plan receives  
15          no comments within the 30-day comment period, it shall be  
16          considered final after the comment period ends. If comments are  
17          received on a plan, it shall be considered final after the  
18          comments have been responded to in writing by the manufacturer  
19          and a revised plan, if applicable, has been submitted, no later  
20          than October 1, 2017, to the Agency for posting on its website  
21          no later than November 1, 2017.

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

26          (d) Each manufacturer is responsible for all costs



1 associated with the development and implementation of its plan.

2 (e) By April 1, 2018, and by April 1 of each year  
3 thereafter, each manufacturer shall submit a report to the  
4 Agency that includes, for the previous calendar year, a  
5 description of the manufacturer's collection and recycling  
6 program, including, but not limited to, the collection  
7 locations for plastic carryout bags and plastic film product  
8 wrap, the processing locations for the collected plastic  
9 carryout bags and plastic film product wrap, the weight in  
10 pounds of plastic carryout bags and plastic film product wrap  
11 collected and processed for recycling, the weight in pounds of  
12 plastic carryout bags the manufacturer sold for use or  
13 distribution in Illinois, the percentage of plastic carryout  
14 bags and plastic film product wrap collected and processed for  
15 recycling based on the weight in pounds of plastic carryout  
16 bags and plastic film product wrap collected and processed for  
17 recycling and the weight in pounds of plastic carryout bags  
18 sold for use or distribution in Illinois, and samples of the  
19 education materials provided to consumers. Beginning with the  
20 annual report due April 1, 2018, the report shall also state  
21 the amounts of pre-consumer recycled content and post-consumer  
22 recycled content in the plastic carryout bags the manufacturer  
23 sold for use or distribution in Illinois. Additional  
24 requirements for specific annual reports include:

25 (1) a demonstration in the annual report for calendar  
26 year 2018 that 75% of the population in Illinois resides

1 within 10 miles of a plastic carryout bag and plastic film  
2 product wrap collection site, and that collection sites are  
3 located in at least 90% of Illinois counties;

4 (2) a demonstration in the annual report for calendar  
5 year 2019 that 80% of the population in Illinois resides  
6 within 10 miles of a plastic carryout bag and plastic film  
7 product wrap collection site; and

8 (3) a demonstration in the annual report for calendar  
9 year 2019 that the percentage of plastic carryout bags and  
10 plastic film product wrap recycled increased by at least  
11 12% from the recycling rate calculated in the annual report  
12 for calendar year 2018. Notwithstanding the required  
13 recycling rate increase specified in this item (3),  
14 manufacturers are encouraged to work with units of local  
15 government, retail establishments, solid waste agencies,  
16 or other entities they deem appropriate to try to reach a  
17 recycling rate increase of 20%.

18 If these additional requirements specified in items (1)  
19 through (3) of this subsection (e) cannot be demonstrated in  
20 the appropriate annual reports, the penalties under Section 50  
21 of this Act shall be applicable.

22 (f) A manufacturer shall conduct and document due diligence  
23 assessments of any person with whom the manufacturer contracts  
24 or arranges for any one or more of the following: a recycling  
25 collection location; collection, processing or transportation  
26 of plastic carryout bags or plastic film product wrap; or

1 recycling of plastic carryout bags and plastic film product  
2 wrap.

3 (g) A manufacturer may fulfill the requirements of this  
4 Section either individually or in participation with other  
5 manufacturers.

6 Section 30. Requirements applicable to retailers.

7 (a) Beginning January 1, 2018, no retailer shall purchase  
8 plastic carryout bags directly from a manufacturer for use or  
9 distribution in Illinois unless the manufacturer of the bags is  
10 registered with the Agency in accordance with Section 15.

11 (b) Beginning January 1, 2018, no retailer shall purchase  
12 plastic carryout bags for use or distribution in Illinois  
13 directly from a bag manufacturer unless the manufacturer's plan  
14 is posted on the Agency's website in accordance with Section  
15 25.

16 (c) Beginning January 1, 2018, no retailer shall purchase  
17 plastic carryout bags for use or distribution in Illinois  
18 directly from a bag manufacturer unless the name of the  
19 manufacturer or the manufacturer's unique vendor number  
20 assigned by the Agency pursuant to Section 15 is printed on the  
21 bag so that the manufacturer's identity is readily identifiable  
22 in accordance with Section 20.

23 (d) Retailers that have implemented a recycling program  
24 independent of this Act which allows consumers to bring their  
25 plastic bags and film product wrap to the store for recycling

1 shall be allowed to continue to operate their programs  
2 independent of this Act. Such retailers can report their  
3 recycling status to the Agency for inclusion in the list posted  
4 on its website of retailers who are recycling in Illinois. In  
5 addition, manufacturers can include these retailers in their  
6 recycling plans submitted to the Agency pursuant to an  
7 agreement between the retailer and the manufacturer.

8 Section 31. Requirements applicable to distributors and  
9 wholesalers. Beginning January 1, 2018, a distributor or  
10 wholesaler shall not purchase plastic carryout bags from a  
11 manufacturer for use or distribution to a retailer as defined  
12 in this Act in Illinois unless the bag manufacturer is  
13 registered with the Agency in accordance with Section 15 and  
14 complies with Sections 20 and 25.

15 Section 35. Responsibilities of the Agency.

16 (a) Beginning September 1, 2017, for the benefit of  
17 assisting consumers who wish to find collection locations for  
18 recycling plastic bags, the Agency shall post on its website  
19 the location of all collection sites identified to the Agency  
20 by manufacturers in their plans and annual reports.

21 (b) Beginning September 1, 2017, the Agency shall post on  
22 its website the list of manufacturers that are registered in  
23 accordance with Section 15.

24 (c) Beginning September 1, 2017, the Agency shall post on

1 its website the list of manufacturers for which the Agency has  
2 received a plan in accordance with Section 25.

3 (d) Beginning May 1, 2018, the Agency shall post on its  
4 website (i) the list of manufacturers for which the Agency has  
5 received an annual report in accordance with Section 25 and  
6 (ii) copies of the annual reports within 30 days after receipt.

7 Section 40. Recycled content goal.

8 (a) Beginning January 1, 2018, manufacturers selling  
9 plastic carryout bags for use or distribution in Illinois may  
10 label each bag to identify the recycled content in the bag.

11 (b) Beginning January 1, 2019, manufacturers of plastic  
12 carryout bags shall strive to manufacture the bag to include at  
13 least 30% total recycled content.

14 Section 50. Penalties.

15 (a) Any manufacturer, distributor, or wholesaler who  
16 violates any provision of this Act or fails to perform any duty  
17 under this Act shall be liable for a civil penalty not to  
18 exceed \$1,000, as determined by the Agency.

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

23 (c) The penalties provided for in this Section may be  
24 recovered in a civil action brought in the county in which the

1 violation occurred and in the name of the People of the State  
2 of Illinois by either the State's Attorney of the county in  
3 which the violation occurred or the Attorney General. Any funds  
4 collected under this Section in an action in which the Attorney  
5 General has prevailed shall be deposited in the Environmental  
6 Protection Trust Fund, to be used in accordance with the  
7 provisions of the Environmental Protection Trust Fund Act.

8 Section 55. Report to the General Assembly. No later than  
9 October 1, 2020, the Director of the Agency shall submit a  
10 report to the General Assembly describing the results of the  
11 plastic carryout bag and plastic film wrap collection and  
12 recycling program on a statewide basis. The report shall also  
13 contain recommendations regarding whether the program shall be  
14 made permanent and any modifications to improve its function  
15 and efficiency.

16 Section 60. Applicability.

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

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

22 Section 65. Home rule.

23 (a) Except in a home rule unit with a population of over

1 2,000,000 or in a home rule municipality to which subsection  
2 (c) of this Section applies, the regulation of the collection,  
3 recycling, sale, and use of plastic carryout bags and film,  
4 including any effort to regulate through the imposition of a  
5 ban on those items, is an exclusive power and function of the  
6 State. A home rule unit, other than a home rule unit with a  
7 population of over 2,000,000 and other than a home rule unit to  
8 which subsection (c) of this Section applies, may not regulate  
9 the collection, recycling, sale, or use of plastic carryout  
10 bags and film. This subsection (a) is a denial and limitation  
11 of home rule powers and functions under subsection (h) of  
12 Section 6 of Article VII of the Illinois Constitution.

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

19 (c) A home rule municipality that had a plastic bag and  
20 film take-back ordinance in effect on January 1, 2012 may  
21 continue the program created by that ordinance, as in effect on  
22 that date. However, that home rule unit municipality shall not  
23 regulate the collection, recycling, sale, or use of plastic  
24 carryout bags or film in a manner that is more restrictive than  
25 is provided in that ordinance, as of January 1, 2012, or this  
26 Act. This subsection (c) is a limitation under subsection (i)

1 of Section 6 of Article VII of the Illinois Constitution on the  
2 concurrent exercise by that home rule unit of powers and  
3 functions exercised by the State.

4 Section 70. The Regulatory Sunset Act is amended by  
5 changing Section 4.31 as follows:

6 (5 ILCS 80/4.31)

7 Sec. 4.31. Acts repealed on January 1, 2021 and October 1,  
8 2021.

9 (a) The following Acts are repealed on January 1, 2021:

10 The Crematory Regulation Act.

11 The Cemetery Oversight Act.

12 The Illinois Health Information Exchange and  
13 Technology Act.

14 The Radiation Protection Act of 1990.

15 (b) The following Act is repealed on October 1, 2021:

16 The Plastic Bag and Film Recycling Act.

17 (Source: P.A. 96-1041, eff. 7-14-10; 96-1331, eff. 7-27-10;  
18 incorporates P.A. 96-863, eff. 3-1-10; 97-333, eff. 8-12-11.)

19 Section 99. Effective date. This Act takes effect upon  
20 becoming law.