



KEY: ~~stricken~~ = removed, old language. underscored = added, new language.

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## H.F. No. 41, as introduced - 86th Legislative Session (2009-2010) Posted on Jan 12, 2009

1.1 A bill for an act  
 1.2 relating to environment; providing for plastic bag recycling; providing civil  
 1.3 penalties; authorizing rulemaking; proposing coding for new law in Minnesota  
 1.4 Statutes, chapter 115A.  
 1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

### 1.6 Section 1. [115A.5522] PLASTIC BAG RECYCLING.

1.7 Subdivision 1. Definitions. For purposes of this section, the following terms have  
 1.8 the meanings given:

1.9 (1) "chain of stores" means five or more stores located within the state that are  
 1.10 engaged in the same general field of business and conduct business under the same  
 1.11 business name or operate under common ownership or management or pursuant to a  
 1.12 franchise agreement with the same franchisor;

1.13 (2) "consumer" means any person who purchases from a store a product that is  
 1.14 placed in a plastic carryout bag at the time of sale;

1.15 (3) "film plastic" means uncontaminated nonrigid film plastic packaging products  
 1.16 composed of plastic resins that include, but are not limited to, newspaper bags, dry  
 1.17 cleaning bags, and shrink wrap;

1.18 (4) "manufacturer" means a person, firm, or corporation that produces plastic  
 1.19 carryout bags that are sold or distributed in the state or imports into the United States  
 1.20 plastic carryout bags that are sold or distributed in the state;

1.21 (5) "operator" means a person, firm, or corporation that owns or is in control of, or  
 1.22 has responsibility for, the daily operation of a store;

1.23 (6) "plastic carryout bag" means a plastic bag that is provided by a store to a  
 1.24 consumer at the point of sale and that is not a reusable bag;

2.1 (7) "reusable bag" means a durable plastic bag that is at least 2.25 mils thick, has  
 2.2 handles, and is specifically designed and manufactured for multiple reuse or a bag that is  
 2.3 made of cloth or other machine washable fabric and has handles; and

2.4 (8) "store" means a retail or wholesale establishment that sells products, provides  
 2.5 plastic carryout bags to consumers in which to place the products, and has over 5,000  
 2.6 square feet of retail or wholesale space or is one of a chain of stores. Store does not  
 2.7 include a food and beverage service establishment as defined under section 157.15.

2.8 Subd. 2. Recycling program requirements. (a) An operator shall establish an  
 2.9 in-store recycling program that includes, but need not be limited to, the following:

2.10 (1) every plastic carryout bag provided by a store shall have printed or displayed  
 2.11 on the outside face of the bag the words "PLEASE REUSE OR RECYCLE AT A  
 2.12 PARTICIPATING STORE," using letters at least one-half inch in height, or a similar  
 2.13 message encouraging the reuse or recycling of plastic carryout bags that is no less than  
 2.14 one inch in height and uses letters at least one-quarter inch in height;

2.15 (2) a bin for the collection of plastic carryout bags and other film plastic shall be  
2.16 placed in a visible location that is easily accessible to the consumer and clearly marked as  
2.17 available for collecting plastic carryout bags and other film plastic for recycling;  
2.18 (3) all plastic carryout bags and other film plastic returned to the store must be  
2.19 collected, transported, and recycled in a manner consistent with this chapter or any rule  
2.20 adopted under this chapter;  
2.21 (4) plastic carryout bags and other film plastic collected by the store that are free of  
2.22 foreign material shall not be disposed of in any solid waste or hazardous waste disposal  
2.23 facility; and  
2.24 (5) the operator shall make available to consumers within the store at or near the  
2.25 place where plastic carryout bags are dispensed, reusable bags, which may be purchased  
2.26 and used in lieu of plastic carryout bags or paper bags.  
2.27 (b) The operator or the operator's designee shall maintain records of the weight of  
2.28 the plastic carryout bags and film plastic that are collected by the operator's store and  
2.29 transported for recycling.  
2.30 (c) By February 28 of each year, an operator or operator's designee shall submit an  
2.31 annual report to the commissioner covering the preceding calendar year, which shall  
2.32 include for all stores that it operates within the state the weight of carryout plastic bags  
2.33 and other film plastic that were collected and transported for recycling, the costs to the  
2.34 operator of the efforts, and any other information the commissioner requires by rule.  
2.35 (d) The commissioner shall, in consultation with operators, manufacturers, and  
2.36 recyclers, develop a system to monitor and determine the weight of all plastic carryout  
3.1 bags and other film plastic collected under this section and shall analyze the information  
3.2 and report to the chairs of the house and senate committees having jurisdiction over the  
3.3 environment by December 31 of even-numbered years regarding the implementation and  
3.4 enforcement of this section. The commissioner may adopt rules to implement this section.  
3.5 Subd. 3. **Manufacturer responsibilities.** (a) A manufacturer whose plastic carryout  
3.6 bags are sold or distributed to a store subject to this section shall make arrangements with  
3.7 the operator, upon the operator's request, for the collection, transport, and recycling of  
3.8 all plastic carryout bags and other film plastic collected consistent with this section. The  
3.9 arrangements may include contracts or other agreements with third parties.  
3.10 (b) A manufacturer that arranges with an operator for the collection, transport,  
3.11 and recycling of plastic carryout bags and other film plastic shall report annually to the  
3.12 operator the total weight of plastic carryout bags and other film plastic that have been  
3.13 collected from the operator. The annual report shall cover the preceding calendar year  
3.14 and be submitted to the operator no later than January 31 following the calendar year to  
3.15 which the annual report relates.  
3.16 (c) A manufacturer whose plastic carryout bags are sold or distributed to a store  
3.17 subject to this section shall make arrangements with the operator, upon the operator's  
3.18 request, to provide the operator with educational materials that encourage the reduction,  
3.19 reuse, and recycling of plastic carryout bags.  
3.20 Subd. 4. **Penalties.** (a) An operator who violates subdivision 2, paragraph (a), is  
3.21 liable for a civil penalty in the amount of \$300 per day for each day that a recycling  
3.22 program meeting the requirements of subdivision 2 is not in effect. It is an affirmative  
3.23 defense to a violation of subdivision 2, paragraph (a), clauses (1) and (5), that the  
3.24 operator used its best efforts to comply with those clauses but was unable to because of  
3.25 circumstances beyond the operator's control.  
3.26 (b) An operator who violates subdivision 2, paragraph (b), is liable for a civil

- 3.27 penalty of:
- 3.28 (1) \$100;
- 3.29 (2) \$700 for a second violation within 12 months of the first violation; or
- 3.30 (3) \$1,000 for a third violation within 12 months of the first violation.
- 3.31 (c) An operator who violates subdivision 2, paragraph (c), is liable for a civil penalty
- 3.32 of \$700.
- 3.33 (d) A manufacturer who violates subdivision 3, paragraph (a), is liable for a civil
- 3.34 penalty of \$500 per day for each day that the violation continues.
- 3.35 (e) A manufacturer who violates subdivision 2, paragraph (b), is liable for a civil
- 3.36 penalty of \$1,000.
- 4.1 (f) A manufacturer who violates subdivision 2, paragraph (c), is liable for a civil
- 4.2 penalty of:
- 4.3 (1) \$100;
- 4.4 (2) \$1,000 for a second violation within 12 months of the first violation; or
- 4.5 (3) \$1,500 for a third violation within 12 months of the first violation.
- 4.6       Sec. 2. **TRANSITION.**
- 4.7 For six months after the effective date of this act, a store under Minnesota Statutes,
- 4.8 section 115A.5522, may use its existing stock of plastic carryout bags and may apply
- 4.9 to the commissioner of the Pollution Control Agency for a waiver, based on economic
- 4.10 hardship, to extend the six-month period.
- 4.11       Sec. 3. **EFFECTIVE DATE.**
- 4.12 Sections 1 and 2 are effective January 1, 2010.

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