

SENATE FILE 2107

FILED JAN 29 1999

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Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act establishing a mechanism by which the director of the
2 department of natural resources may prohibit the manufacture,
3 use, or disposal of certain containers within the state.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 2107

1 Section 1. NEW SECTION. 455B.315 PACKAGING REVIEW BOARD.

2 1. DEFINITIONS.

3 As used in this section, unless the context otherwise
4 requires:

5 a. "Board" means the packaging review board established
6 pursuant to this section.

7 b. "Committee" means the packaging review advisory
8 committee.

9 c. "Container" means a rigid or semirigid package used to
10 contain products which are sold at retail.

11 d. "Rigid container" means a container used to contain a
12 product sold at retail that retains its structural
13 configuration after the product is removed.

14 e. "Semirigid container" means a container that is formed,
15 shaped, or molded so that when used to contain a product sold
16 at retail it gains a structural configuration even though the
17 container does not retain its structural configuration prior
18 to containing a product or after the product is removed.

19 2. PACKAGING REVIEW BOARD.

20 a. A packaging review board is established within the
21 department of natural resources. The board consists of the
22 following members:

23 (1) The director of the department of natural resources or
24 the director's designee.

25 (2) The administrator of the consumer protection division
26 of the office of the attorney general, or the administrator's
27 designee.

28 (3) The director of the department of economic development
29 or the director's designee.

30 b. The director of the department of natural resources or
31 the director's designee shall serve as chairperson of the
32 board. The board shall meet as frequently as its business
33 requires, but at least quarterly.

34 c. The board shall adopt, and from time to time may amend
35 or repeal rules regarding the conduct of its meetings and the

1 transaction of its assigned duties.

2 d. All meetings of the board in every proceeding shall be
3 deemed to have been duly called and regularly held, and all
4 regulations and proceedings to have been duly authorized
5 unless the contrary is proved.

6 e. The chairperson shall designate an officer or employee
7 of the department to act as secretary of the board.

8 3. AUTHORITY TO RECOMMEND PROHIBITIONS AGAINST CONTAINERS
9 WHICH DEGRADE THE STATE'S ENVIRONMENT. The board may review
10 the environmental impact of a specific container or class of
11 container upon one or more of the following:

12 a. Its own initiative.

13 b. The request of one or more of the following:

14 (1) A local government.

15 (2) The packaging review committee.

16 (3) At least one hundred individuals residing within the
17 state.

18 (4) A group whose membership includes at least one hundred
19 individuals residing within the state.

20 If the board determines that the manufacture, use, or
21 disposal of the specific container or class of container under
22 review significantly degrades the state's environment, the
23 board may vote to recommend that the director prohibit one or
24 more of the following within this state: the use,
25 manufacture, or disposal of a specific container or class of
26 container.

27 4. DIRECTOR'S AUTHORITY TO PROHIBIT BY RULE USE OF CERTAIN
28 CONTAINERS. The director may by rule or order prohibit one or
29 more of the following within this state: the use,
30 manufacture, or disposal of a specific container or class of
31 container. However, the director may issue a prohibition only
32 if all of the following conditions are satisfied:

33 a. The board has previously recommended that the
34 container, or a broader class inclusive of the container, or
35 class of container be prohibited for any of the following:

1 manufacture, use, or disposal.

2 b. The director reasonably believes that the container or
3 class of container poses a significant threat to the
4 environment, either through its production, use, or disposal.

5 A prohibition becomes effective two years after the entry
6 of the order or final publication of the rule unless stayed or
7 withdrawn in the interim.

8 5. AGGRIEVED CONTAINER MANUFACTURER OR USER'S RIGHT TO
9 APPEAL.

10 a. Upon application or petition of a manufacturer or user
11 of a prohibited container or class of containers, or a
12 representative of a manufacturer or user, the board shall
13 determine whether to recommend that the director withdraw an
14 order prohibiting the container or class. The board shall
15 make its recommendations to the director after a hearing on
16 the petition.

17 b. The board may require the applicant to provide
18 information the board deems necessary to make its
19 determination.

20 c. At the request of the applicant, the board and any
21 members, agents, or staff of the board shall hold any
22 information submitted to the board as confidential proprietary
23 information, and such information is not subject to disclosure
24 under chapter 21 or 22 or upon any other basis.

25 6. PACKAGING REVIEW ADVISORY COMMITTEE.

26 a. The governor shall appoint a seven-member packaging
27 review advisory committee for the purpose of providing
28 technical advice to the packaging review board. The members
29 shall serve without compensation. The committee shall consist
30 of a representative from each of the following categories:

31 (1) The department of natural resources.

32 (2) The retail food industry.

33 (3) An environmental group.

34 (4) The packaging manufacturing industry.

35 (5) Local government.

1 (6) The waste disposal or recycling industry.

2 (7) The restaurant industry.

3 b. The representative of the department shall serve as the
4 committee chairperson.

5 c. The committee shall provide technical advice and
6 recommendations to the board concerning the environmental
7 impact of the manufacture, use, and disposal of containers.

8 EXPLANATION

9 This bill creates a mechanism by which the director of the
10 department of natural resources could prohibit the use or
11 manufacture of certain containers within the state based upon
12 a reasonable belief that their use, manufacture, or disposal
13 poses a significant threat to the environment. A packaging
14 review board must first recommend a prohibition to the
15 director. A packaging advisory committee is created to
16 provide the board, and indirectly the director, with expert
17 advice in related areas. A manufacturer or user of a
18 prohibited container is permitted an opportunity to appeal a
19 decision of the director adversely affecting that person. An
20 order or rule prohibiting a particular container becomes
21 effective two years after entry of the order or final
22 publication of the rule unless withdrawn or stayed in the
23 interim.

24 This bill may contain a state mandate as defined in section
25 258.3.

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