



2003 ASSEMBLY BILL 969

March 11, 2004 – Introduced by Representative BLACK. Referred to Committee on Rules.

1 **AN ACT to renumber and amend** 100.297 (2) and 100.297 (3); and **to create**
2 100.297 (2) (b) and (c), 100.297 (3) (b) and (c) and 100.297 (4) of the statutes;
3 **relating to:** prohibiting the sale of a product in a plastic container if the
4 container does not consist of a percentage of postconsumer waste by weight and
5 providing a penalty.

Analysis by the Legislative Reference Bureau

Current law generally prohibits the retail sale of a product in a plastic container unless the container consists of at least 10% recycled or remanufactured material. This prohibition applies to the sale of food, beverages, drugs, cosmetics, or medical devices that are regulated under the federal Food, Drug and Cosmetic Act only if the federal Food and Drug Administration approves the use of a plastic container that consists of at least 10% or more recycled or remanufactured material for the food, beverage, drug, cosmetic, or medical device.

This bill generally prohibits the retail sale of a product in a plastic container unless the container consists of at least 10% postconsumer waste beginning in 2004, at least 20% postconsumer waste beginning in 2006, and at least 25% postconsumer waste beginning in 2008. Postconsumer waste is basically solid waste other than solid waste generated in the production of goods. The prohibition does not apply to the sale of drugs, medical devices, infant formula or medical food or to products that the federal Department of Transportation prohibits from being packaged in a plastic container that consists of the specified percentage of postconsumer waste. The

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prohibition does not apply to the sale of food, beverages, or cosmetics that are regulated by the federal Food, Drug and Cosmetic Act if the federal Food and Drug Administration prohibits the sale of the product in a plastic container that consists of the specified percentage of postconsumer waste. A person who sells a product in a plastic container that does not contain the required percentage of postconsumer waste is subject to a forfeiture (a civil penalty) of not more than \$200.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 100.297 (2) of the statutes is renumbered 100.297 (2) (intro.) and
2 amended to read:

3 100.297 (2) PROHIBITION. (intro.) Except as provided in sub. (3), no person may
4 sell or offer for sale at retail any product in a plastic container unless the plastic
5 container consists of at least the following percentages of postconsumer waste, as
6 defined in s. 287.01 (7):

7 (a) Beginning on the effective date of this paragraph ... [revisor inserts date],
8 10% recycled or remanufactured material, by weight beginning on January 1, 1995.

9 **SECTION 2.** 100.297 (2) (b) and (c) of the statutes are created to read:

10 100.297 (2) (b) Beginning on January 1, 2006, 20%.

11 (c) Beginning on January 1, 2008, 25%.

12 **SECTION 3.** 100.297 (3) of the statutes is renumbered 100.297 (3) (intro.) and
13 amended to read:

14 100.297 (3) EXCEPTION. (intro.) Subsection (2) applies does not apply to a
15 person who sells or offers to sell ~~a product that is a~~ any of the following products:

16 (a) A food, beverage, drug, or cosmetic or medical device and that is regulated
17 under the federal food, drug and cosmetic act Food, Drug and Cosmetic Act, 21 USC
18 301 to 394, in a plastic container only if the federal food and drug administration has

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1 ~~approved prohibited the use product from being packaged in a container that consists~~
2 ~~of the specified recycled or remanufactured content in that plastic container~~
3 ~~percentage of postconsumer waste, as defined in s. 287.01 (7).~~

4 **SECTION 4.** 100.297 (3) (b) and (c) of the statutes are created to read:

5 100.297 (3) (b) A drug, device, or infant formula, as defined in 21 USC 321, or
6 medical food, as defined in 21 USC 360ee.

7 (c) A product that the federal department of transportation prohibits under 49
8 CFR 178.509 or 178.522 from being packaged in a container that consists of the
9 specified percentage of postconsumer waste, as defined in s. 287.01 (7).

10 **SECTION 5.** 100.297 (4) of the statutes is created to read:

11 100.297 (4) FORFEITURE. Any person who violates sub. (2) may be required to
12 forfeit not more than \$200 for each violation.

13 **SECTION 6. Effective date.**

14 (1) This act takes effect on January 1, 2004, or the first day of the 6th month
15 beginning after publication, whichever is later.

16 (END)