

1       **AN ACT** *to amend* 100.297; and *to create* 100.297 (4) of the statutes; **relating to:**  
 2           plastic container recycled content.

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

**JOINT LEGISLATIVE COUNCIL PREFATORY NOTE:** This draft was prepared for the Joint Legislative Council’s Special Committee on Single–Use Plastics. It responds to the committee’s instruction to develop ideas for content requirements in plastic containers.

It corresponds to Section I. A. 1. a. and b. of Memo No. 1 and is based on recommendations from presenters to the committee and committee discussion.

The draft modifies the recycled content requirement for plastic containers under current law. The draft requires the use of “recycled post–consumer waste” in plastic containers to meet this requirement, instead of “recycled or remanufactured material”. The draft also authorizes the Department of Agriculture, Trade and Consumer Protection (DATCP) to determine whether there is a Federal Food and Drug Administration (FDA)–approved process for inclusion of recycled content in a plastic container holding an FDA–regulated product.

3           **SECTION 1.** 100.297 of the statutes is amended to read:

4           **100.297 Plastic container recycled content.** (1) ~~DEFINITION~~ DEFINITIONS. In this  
 5 section, “~~plastic~~”:

6           (a) “Approved by the FDA” means to be the subject of a no objection letter from or to  
 7 have otherwise been approved by the federal food and drug administration.

8           (b) “Plastic container” means a plastic container, as defined in s. 100.33 (1) (c), that is  
 9 required to be labeled under s. 100.33 (2).

10          (2) **PROHIBITION.** Except as provided in ~~sub.~~ subs. (3) and (4), no person may sell or offer  
 11 for sale at retail any product in a plastic container unless the plastic container consists of at

1 least 10% recycled ~~or remanufactured material~~ post-consumer waste, as defined in s. 287.01  
2 (7), by weight ~~beginning on January 1, 1995.~~

3 (3) EXCEPTION. Subsection (2) applies to a person who sells or offers to sell a product  
4 that is a food, beverage, drug, cosmetic or medical device and that is regulated under the  
5 federal food, drug and cosmetic act, 21 USC 301 to 394, in a plastic container only if ~~the~~  
6 ~~federal food and drug administration has approved the use of the specified recycled or~~  
7 ~~remanufactured content in that plastic container:~~

8 The department determines, by rule, that a process for inclusion of the required recycled  
9 post-consumer waste in the type of plastic container to be sold or offered for sale is  
10 commercially available, economically feasible, and has been approved by the federal food and  
11 drug administration.

12 SECTION 2. 100.297 (4) of the statutes is created to read:

13 100.297 (4) ADJUSTMENTS TO REQUIRED RECYCLED CONTENT. The department shall  
14 reduce the required content of recycled post-consumer waste specified in sub. (2) for a type  
15 of plastic package if the department determines that inclusion of the required recycled  
16 post-consumer waste in the plastic package is not economically feasible or is otherwise  
17 prohibited by state or federal law or that the recycled post-consumer waste is not  
18 commercially available in sufficient quantities.

19 (END)