

HOUSE BILL 168

M3

4lr0923

HB 342/23 – ENT & ECM

(PRE-FILED)

By: **Delegates Terrasa, Hill, Lehman, Palakovich Carr, Ruth, Solomon, and Wu**

Requested: October 11, 2023

Introduced and read first time: January 10, 2024

Assigned to: Environment and Transportation and Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Environment – Plastic Products – Postconsumer Recycled Content Program**

3 FOR the purpose of prohibiting certain producers of certain plastic products from selling,
4 offering for sale, or distributing the products to any person in the State unless certain
5 conditions are met; requiring certain producers of certain plastic products to,
6 individually or as part of a representative organization, register and pay a certain
7 fee annually to the Department of the Environment; establishing certain minimum
8 postconsumer recycled content percentage requirements for certain plastic beverage
9 containers and rigid plastic containers; authorizing the Department to grant a
10 certain waiver under certain circumstances; authorizing the Department to conduct
11 certain audits and investigations and to participate in a certain multistate
12 clearinghouse; requiring the Department to publish on its website certain
13 information; authorizing the Department to grant a reduction in certain
14 administrative penalties under certain circumstances; and generally relating to
15 plastic products and postconsumer recycled content.

16 BY repealing and reenacting, without amendments,
17 Article – Environment
18 Section 9–1702(a)
19 Annotated Code of Maryland
20 (2014 Replacement Volume and 2023 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article – Environment
23 Section 9–1702(d) and 9–1707(f)
24 Annotated Code of Maryland
25 (2014 Replacement Volume and 2023 Supplement)

26 BY adding to
27 Article – Environment

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 9–2601 through 9–2610 to be under the new subtitle “Subtitle 26.
2 Postconsumer Recycled Content Program”
3 Annotated Code of Maryland
4 (2014 Replacement Volume and 2023 Supplement)

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
6 That the Laws of Maryland read as follows:

7 **Article – Environment**

8 9–1702.

9 (a) There is an Office of Recycling created within the Department.

10 (d) The Office shall:

11 (1) Assist the counties in developing an acceptable recycling plan required
12 under § 9–1703 of this subtitle and § 9–505 of this title, including technical assistance to
13 the local governments;

14 (2) Coordinate the efforts of the State to facilitate the implementation of
15 the recycling goals at the county level;

16 (3) Review all recycling plans submitted as part of a county plan as
17 required under § 9–505 of this title and advise the Secretary on the adequacy of the
18 recycling plan;

19 (4) Administer the Statewide Electronics Recycling Program under Part IV
20 of this subtitle; [and]

21 **(5) ADMINISTER THE POSTCONSUMER RECYCLED CONTENT**
22 **PROGRAM UNDER SUBTITLE 26 OF THIS TITLE; AND**

23 ~~[(5)]~~ **(6)** Promote the development of markets for recycled materials and
24 recycled products in the State in accordance with § 9–1702.1 of this subtitle.

25 9–1707.

26 (f) (1) There is a State Recycling Trust Fund.

27 (2) The Fund shall consist of:

28 (i) The newspaper recycling incentive fee;

29 (ii) The telephone directory recycling incentive fee collected under §
30 9–1709 of this subtitle;

1 (iii) The covered electronic device manufacturer registration fee
2 collected under § 9-1728 of this subtitle;

3 (IV) **THE POSTCONSUMER RECYCLED CONTENT REGISTRATION**
4 **FEES COLLECTED UNDER § 9-2603 OF THIS TITLE;**

5 [(iv)] (V) All fines and penalties collected under this subtitle **AND §**
6 **9-2610 OF THIS TITLE;**

7 [(v)] (VI) Money appropriated in the State budget to the Fund; and

8 [(vi)] (VII) Any other money from any other source accepted for the
9 benefit of the Fund.

10 (3) The Secretary shall administer the Fund.

11 (4) The Treasurer shall hold the Fund separately and the Comptroller shall
12 account for the Fund.

13 (5) [At] **EXCEPT AS PROVIDED IN PARAGRAPH (7) OF THIS**
14 **SUBSECTION, AT** the end of each fiscal year, any unspent or unencumbered balance in the
15 Fund that exceeds \$2,000,000 shall revert to the General Fund of the State in accordance
16 with § 7-302 of the State Finance and Procurement Article.

17 (6) In accordance with the State budget, the Fund shall be used only:

18 (i) To provide grants to the counties to be used by the counties to
19 develop and implement local recycling plans;

20 (ii) To provide grants to counties that have addressed methods for
21 the separate collection and recycling of covered electronic devices in accordance with §
22 9-1703(c)(1) of this subtitle;

23 (iii) To provide grants to municipalities to be used by the
24 municipalities to implement local covered electronic device recycling programs; [and]

25 (IV) **TO COVER THE COSTS OF PLANNING, IMPLEMENTING,**
26 **ADMINISTERING, MONITORING, ENFORCING, AND EVALUATING THE**
27 **POSTCONSUMER RECYCLED CONTENT PROGRAM ESTABLISHED UNDER SUBTITLE**
28 **26 OF THIS TITLE; AND**

29 [(iv)] (V) To carry out the purposes of the land management
30 administration.

31 (7) (I) **THERE SHALL BE A SEPARATE ACCOUNT WITHIN THE FUND.**

1 (II) THE SEPARATE ACCOUNT SHALL CONSIST OF:

2 1. ANY FEES COLLECTED FROM PRODUCERS OF
3 COVERED PRODUCTS UNDER § 9-2603 OF THIS TITLE; AND

4 2. ALL FINES AND PENALTIES COLLECTED UNDER §
5 9-2610 OF THIS TITLE.

6 (III) THE SEPARATE ACCOUNT SHALL BE USED ONLY TO:

7 1. REIMBURSE THE GENERAL FUND OF THE STATE IN
8 ACCORDANCE WITH § 9-2603(A)(4)(II)1 OF THIS TITLE; AND

9 2. COVER THE COSTS OF PLANNING, IMPLEMENTING,
10 ADMINISTERING, MONITORING, ENFORCING, AND EVALUATING THE
11 POSTCONSUMER RECYCLED CONTENT PROGRAM ESTABLISHED UNDER SUBTITLE
12 26 OF THIS TITLE.

13 (IV) MONEY DEPOSITED INTO THE SEPARATE ACCOUNT IS NOT
14 SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE AND
15 MAY NOT REVERT TO THE GENERAL FUND OF THE STATE.

16 [(7)] (8) (i) The Treasurer shall invest the money in the Fund in the
17 same manner as other State money may be invested.

18 (ii) Any investment earnings of the Fund shall be credited to the
19 General Fund of the State.

20 SUBTITLE 26. POSTCONSUMER RECYCLED CONTENT PROGRAM.

21 9-2601.

22 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
23 INDICATED.

24 (B) "COVERED PRODUCT" MEANS A PRODUCT THAT IS SUBJECT TO THE
25 POSTCONSUMER RECYCLED CONTENT PERCENTAGE REQUIREMENTS ESTABLISHED
26 UNDER THIS SUBTITLE.

27 (C) (1) "HOUSEHOLD CLEANING PRODUCT" MEANS A PRODUCT THAT IS
28 LABELED OR MARKETED TO CLEAN, FRESHEN, OR REMOVE UNWANTED SUBSTANCES
29 SUCH AS DIRT, STAINS, OR OTHER IMPURITIES FROM OBJECTS, INTERIOR OR

1 EXTERIOR STRUCTURES, VEHICLES, POSSESSIONS, AND OTHER ENVIRONMENTS
2 ASSOCIATED WITH A HOUSEHOLD.

3 (2) "HOUSEHOLD CLEANING PRODUCT" INCLUDES:

4 (I) LIQUID SOAPS, LAUNDRY SOAPS, DETERGENTS, FABRIC
5 SOFTENERS, SURFACE POLISHES, AND STAIN REMOVERS; AND

6 (II) TEXTILE CLEANERS, CARPET CLEANERS, AND PET
7 CLEANERS AND TREATMENTS.

8 (D) (1) "PERSONAL CARE PRODUCT" MEANS A PRODUCT THAT IS
9 LABELED OR MARKETED FOR THE APPLICATION TO AN INDIVIDUAL IN ORDER TO
10 CLEAN, ALTER, OR MAINTAIN THE APPEARANCE OF THE INDIVIDUAL.

11 (2) "PERSONAL CARE PRODUCT" INCLUDES:

12 (I) SHAMPOO, CONDITIONER, STYLING SPRAYS AND GELS, AND
13 OTHER HAIR CARE PRODUCTS;

14 (II) LOTION, MOISTURIZER, FACIAL TONER, AND OTHER SKIN
15 CARE PRODUCTS; AND

16 (III) LIQUID SOAP AND OTHER BODY CARE PRODUCTS.

17 (E) (1) "POSTCONSUMER RECYCLED CONTENT" MEANS THE PORTION OF
18 A COVERED PRODUCT'S TOTAL WEIGHT THAT IS COMPOSED OF POSTCONSUMER
19 RECYCLED MATERIAL, AS DETERMINED BY A MATERIAL BALANCE APPROACH THAT
20 CALCULATES TOTAL POSTCONSUMER RECYCLED MATERIAL AS A PERCENTAGE OF
21 THE TOTAL WEIGHT OF THE COVERED PRODUCT.

22 (2) "POSTCONSUMER RECYCLED CONTENT" DOES NOT INCLUDE
23 PRE-CONSUMER OR POSTINDUSTRIAL SECONDARY WASTE MATERIAL OR
24 MATERIALS AND BY-PRODUCTS GENERATED FROM, AND COMMONLY USED WITHIN,
25 AN ORIGINAL MANUFACTURING AND FABRICATION PROCESS.

26 (F) "POSTCONSUMER RECYCLED MATERIAL" MEANS A MATERIAL OR
27 PRODUCT GENERATED BY HOUSEHOLDS OR BY COMMERCIAL, INDUSTRIAL, AND
28 INSTITUTIONAL FACILITIES IN THEIR ROLE AS END USERS OF THE MATERIAL OR
29 PRODUCT THAT HAS:

1 **(1) BEEN USED FOR ITS INTENDED USE OR CAN NO LONGER BE USED**
2 **FOR ITS INTENDED USE, INCLUDING MATERIAL OR PRODUCT THAT HAS BEEN**
3 **RETURNED FROM THE DISTRIBUTION CHAIN; AND**

4 **(2) BEEN SEPARATED FROM THE SOLID WASTE STREAM FOR THE**
5 **PURPOSES OF COLLECTION AND RECYCLING.**

6 **(G) (1) “PRODUCER” MEANS A PERSON RESPONSIBLE FOR COMPLYING**
7 **WITH THE REQUIREMENTS UNDER THIS SUBTITLE.**

8 **(2) “PRODUCER” INCLUDES A FRANCHISOR OF A FRANCHISE**
9 **LOCATED IN THE STATE.**

10 **(3) “PRODUCER” DOES NOT INCLUDE:**

11 **(I) THE STATE, A COUNTY, A MUNICIPALITY, OR ANY OTHER**
12 **POLITICAL SUBDIVISION OF THE STATE;**

13 **(II) A CHARITABLE ORGANIZATION THAT IS TAX EXEMPT UNDER**
14 **§ 501(C)(3) OF THE INTERNAL REVENUE CODE;**

15 **(III) A SOCIAL WELFARE ORGANIZATION THAT IS TAX EXEMPT**
16 **UNDER § 501(C)(4) OF THE INTERNAL REVENUE CODE;**

17 **(IV) A FRANCHISEE THAT OPERATES A FRANCHISE IN THE**
18 **STATE;**

19 **(V) A PERSON THAT ANNUALLY SELLS, OFFERS FOR SALE,**
20 **DISTRIBUTES, OR IMPORTS INTO THE COUNTRY FOR SALE IN THE STATE LESS THAN**
21 **1 TON OF A SINGLE CATEGORY OF COVERED PRODUCTS; OR**

22 **(VI) A PERSON THAT ANNUALLY SELLS, OFFERS FOR SALE, OR**
23 **DISTRIBUTES ANY CATEGORY OF A COVERED PRODUCT IN THE STATE IF THE**
24 **PERSON’S AGGREGATE GLOBAL ANNUAL REVENUE IS LESS THAN \$5,000,000.**

25 **(H) “PROGRAM” MEANS THE POSTCONSUMER RECYCLING CONTENT**
26 **PROGRAM.**

27 **9-2602.**

28 **(A) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THIS SECTION**
29 **APPLIES TO A PRODUCER THAT SELLS, OFFERS FOR SALE, OR DISTRIBUTES A**
30 **COVERED PRODUCT IN THE STATE.**

1 **(2) (I) IF THE COVERED PRODUCT IS SOLD UNDER THE**
2 **PRODUCER'S OWN BRAND OR LACKS IDENTIFICATION OF A BRAND, THE PRODUCER**
3 **IS THE PERSON WHO MANUFACTURES THE COVERED PRODUCT.**

4 **(II) IF THE COVERED PRODUCT IS MANUFACTURED BY A**
5 **PERSON OTHER THAN THE BRAND OWNER, THE PRODUCER IS THE PERSON WHO IS**
6 **THE LICENSEE OF A BRAND OR TRADEMARK UNDER WHICH A COVERED PRODUCT IS**
7 **SOLD, OFFERED FOR SALE, OR DISTRIBUTED IN THE STATE, WHETHER OR NOT THE**
8 **TRADEMARK IS REGISTERED IN THE STATE.**

9 **(III) IF THERE IS NO PERSON DESCRIBED IN SUBPARAGRAPH (I)**
10 **OR (II) OF THIS PARAGRAPH OVER WHOM THE STATE CAN CONSTITUTIONALLY**
11 **EXERCISE JURISDICTION, THE PRODUCER IS THE PERSON WHO IMPORTS OR**
12 **DISTRIBUTES THE COVERED PRODUCT IN THE STATE.**

13 **(B) A PRODUCER MAY NOT SELL, OFFER FOR SALE, OR DISTRIBUTE A**
14 **COVERED PRODUCT TO ANY PERSON IN THE STATE UNLESS:**

15 **(1) THE PRODUCT MEETS THE MINIMUM POSTCONSUMER RECYCLED**
16 **CONTENT PERCENTAGE REQUIREMENTS ESTABLISHED UNDER THIS SUBTITLE; AND**

17 **(2) IN ACCORDANCE WITH § 9-2603 OF THIS SUBTITLE, THE**
18 **PRODUCER HAS, INDIVIDUALLY OR AS PART OF A REPRESENTATIVE ORGANIZATION:**

19 **(I) REGISTERED WITH THE DEPARTMENT; AND**

20 **(II) SUBMITTED A REGISTRATION FEE TO THE DEPARTMENT.**

21 **9-2603.**

22 **(A) (1) ON OR BEFORE MARCH 1 EACH YEAR, BEGINNING IN 2025, A**
23 **PRODUCER SHALL, INDIVIDUALLY OR AS PART OF A REPRESENTATIVE**
24 **ORGANIZATION, REGISTER WITH THE DEPARTMENT.**

25 **(2) ON OR BEFORE MAY 15 EACH YEAR, BEGINNING IN 2025, A**
26 **PRODUCER SHALL, INDIVIDUALLY OR AS PART OF A REPRESENTATIVE**
27 **ORGANIZATION, PAY THE REGISTRATION FEE ESTABLISHED BY THE DEPARTMENT**
28 **UNDER PARAGRAPH (3) OF THIS SUBSECTION.**

29 **(3) (I) THE DEPARTMENT SHALL ESTABLISH AN ANNUAL**
30 **REGISTRATION FEE FOR EACH CATEGORY OF A COVERED PRODUCT.**

1 **(II) EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS**
2 **PARAGRAPH, REGISTRATION FEES SHALL BE SET IN A MANNER THAT:**

3 **1. WILL PRODUCE FUNDS SUFFICIENT TO COVER THE**
4 **DEPARTMENT'S ESTIMATED COSTS OF PLANNING, IMPLEMENTING,**
5 **ADMINISTERING, MONITORING, ENFORCING, AND EVALUATING THE PROGRAM FOR**
6 **THE UPCOMING 1-YEAR PERIOD; AND**

7 **2. IS PROPORTIONAL TO THE PRODUCER'S SHARE OF**
8 **THE TOTAL POUNDS OF PLASTIC SOLD IN THE STATE IN EACH PRODUCT CATEGORY**
9 **FOR THE IMMEDIATELY PRECEDING YEAR.**

10 **(III) FOR THE FIRST YEAR OF THE PROGRAM'S OPERATION,**
11 **REGISTRATION FEES SHALL BE SET IN A MANNER THAT:**

12 **1. WILL PRODUCE FUNDS SUFFICIENT TO COVER THE**
13 **DEPARTMENT'S ESTIMATED COSTS OF PLANNING, IMPLEMENTING,**
14 **ADMINISTERING, MONITORING, ENFORCING, AND EVALUATING THE PROGRAM FOR**
15 **THE UPCOMING 1-YEAR PERIOD;**

16 **2. WILL PRODUCE FUNDS SUFFICIENT TO REIMBURSE**
17 **THE GENERAL FUND OF THE STATE FOR THE ACTUAL COSTS THAT RESULT FROM**
18 **THE PROGRAM IN THAT YEAR; AND**

19 **3. IS PROPORTIONAL TO THE PRODUCER'S SHARE OF**
20 **THE TOTAL POUNDS OF PLASTIC SOLD IN THE STATE IN EACH PRODUCT CATEGORY**
21 **FOR THE IMMEDIATELY PRECEDING YEAR.**

22 **(4) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**
23 **PARAGRAPH, IF, IN ANY YEAR, THE AMOUNT OF REGISTRATION FEE REVENUE**
24 **COLLECTED BY THE DEPARTMENT EXCEEDS THE DEPARTMENT'S ACTUAL COSTS OF**
25 **PLANNING, IMPLEMENTING, ADMINISTERING, MONITORING, ENFORCING, AND**
26 **EVALUATING THE PROGRAM, THE DEPARTMENT SHALL CARRY THE EXCESS**
27 **AMOUNT FORWARD FOR THE PURPOSE OF REDUCING REGISTRATION FEES FOR THE**
28 **FOLLOWING YEAR.**

29 **(II) FOR THE FIRST YEAR OF THE PROGRAM'S OPERATION,**
30 **REGISTRATION FEE REVENUE SHALL BE USED:**

31 **1. NOTWITHSTANDING § 9-1707(F)(7)(IV) OF THIS**
32 **TITLE, TO REIMBURSE THE GENERAL FUND OF THE STATE FOR ACTUAL COSTS THAT**
33 **RESULT FROM THE PROGRAM FOR THAT YEAR; AND**

1 **2. TO COVER THE DEPARTMENT'S ACTUAL COSTS OF**
2 **PLANNING, IMPLEMENTING, ADMINISTERING, MONITORING, ENFORCING, AND**
3 **EVALUATING THE PROGRAM.**

4 **(5) IF, IN ANY GIVEN YEAR, THE AMOUNT OF REGISTRATION FEE**
5 **REVENUE COLLECTED BY THE DEPARTMENT IS INSUFFICIENT TO COVER THE**
6 **DEPARTMENT'S ACTUAL COSTS OF PLANNING, IMPLEMENTING, ADMINISTERING,**
7 **MONITORING, ENFORCING, AND EVALUATING THE PROGRAM, THE DEPARTMENT**
8 **SHALL ADJUST REGISTRATION FEES FOR THE FOLLOWING YEAR TO COVER THE**
9 **DEPARTMENT'S ACTUAL COSTS.**

10 **(B) THE REGISTRATION SHALL INCLUDE INFORMATION REGARDING:**

11 **(1) EACH PRODUCER INCLUDED UNDER THE REGISTRATION;**

12 **(2) EACH BRAND OF A COVERED PRODUCT INCLUDED UNDER THE**
13 **REGISTRATION;**

14 **(3) THE TOTAL NUMBER OF COVERED PRODUCTS SOLD IN THE STATE**
15 **IN THE IMMEDIATELY PRECEDING CALENDAR YEAR, INCLUDING THE TOTAL**
16 **NUMBER BY EACH CATEGORY OF A COVERED PRODUCT;**

17 **(4) THE AVERAGE PERCENTAGE OF POSTCONSUMER RECYCLED**
18 **CONTENT FOR EACH CATEGORY OF A COVERED PRODUCT SOLD IN THE STATE IN THE**
19 **IMMEDIATELY PRECEDING CALENDAR YEAR;**

20 **(5) PROOF OF THIRD-PARTY CERTIFICATION IN ACCORDANCE WITH**
21 **SUBSECTION (C) OF THIS SECTION; AND**

22 **(6) ANY ADDITIONAL INFORMATION REQUIRED BY THE DEPARTMENT**
23 **IN REGULATION.**

24 **(C) (1) ON OR BEFORE MARCH 1 EACH YEAR, BEGINNING IN 2027, A**
25 **PRODUCER SHALL INCLUDE PROOF OF THIRD-PARTY CERTIFICATION OF THE**
26 **POSTCONSUMER RECYCLED CONTENT OF EACH COVERED PRODUCT INCLUDED IN**
27 **THE REGISTRATION IN A MANNER REQUIRED BY THE DEPARTMENT.**

28 **(2) THE CERTIFICATION REQUIRED UNDER PARAGRAPH (1) OF THIS**
29 **SUBSECTION SHALL BE COMPLETED BY AN INDEPENDENT, ACCREDITED**
30 **CERTIFYING BODY AS REQUIRED BY THE INTERNATIONAL ORGANIZATION FOR**
31 **STANDARDIZATION.**

1 **(D) ANY SALES DATA SUBMITTED TO THE DEPARTMENT TO COMPLY WITH**
2 **THE REQUIREMENTS OF THIS SECTION SHALL BE TREATED AS CONFIDENTIAL AND**
3 **PROPRIETARY, AND MAY NOT BE DISCLOSED EXCEPT AS OTHERWISE REQUIRED BY**
4 **LAW.**

5 **9-2604.**

6 **(A) (1) THIS SECTION APPLIES TO BEVERAGE CONTAINERS THAT ARE**
7 **PRIMARILY COMPOSED OF ONE OR MORE PLASTIC RESINS AND INTENDED TO**
8 **CONTAIN BEVERAGES UP TO 2 GALLONS IN CAPACITY, INCLUDING AN INDIVIDUAL,**
9 **SEALABLE, SEPARATE BOTTLE, CAN, JAR, CARTON, OR OTHER BEVERAGE**
10 **CONTAINER THAT IS CAPABLE OF MAINTAINING ITS SHAPE WHEN EMPTY.**

11 **(2) THIS SECTION DOES NOT APPLY TO:**

12 **(I) REFILLABLE BEVERAGE CONTAINERS, INCLUDING**
13 **CONTAINERS THAT ARE SUFFICIENTLY DURABLE FOR MULTIPLE ROTATIONS OF**
14 **THEIR ORIGINAL PURPOSE OR A SIMILAR PURPOSE AND ARE INTENDED TO**
15 **FUNCTION IN A SYSTEM OF REUSE;**

16 **(II) LINERS, BLADDERS, CAPS, CORKS, CLOSURES, LABELS, AND**
17 **OTHER ITEMS ADDED TO THE BOTTLE OR CONTAINER BUT THAT ARE SEPARATE**
18 **FROM THE STRUCTURE OF THE BOTTLE OR CONTAINER;**

19 **(III) CONTAINERS CERTIFIED BY THE BIODEGRADABLE**
20 **PRODUCTS INSTITUTE AS COMPOSTABLE; AND**

21 **(IV) CONTAINERS USED FOR INFANT FORMULA, MEDICAL**
22 **BEVERAGES, OR FORTIFIED ORAL NUTRITIONAL SUPPLEMENTS.**

23 **(B) THE MINIMUM POSTCONSUMER RECYCLED CONTENT PERCENTAGE**
24 **REQUIREMENT FOR PLASTIC BEVERAGE CONTAINERS IS:**

25 **(1) FROM JANUARY 1, 2026, TO DECEMBER 31, 2028, BOTH**
26 **INCLUSIVE, 15%;**

27 **(2) FROM JANUARY 1, 2029, TO DECEMBER 31, 2032, BOTH**
28 **INCLUSIVE, 25%; AND**

29 **(3) ON AND AFTER JANUARY 1, 2033, 50%.**

30 **9-2605.**

1 **(A) (1) THIS SECTION APPLIES TO RIGID PLASTIC CONTAINERS OR OTHER**
2 **NONDURABLE CONTAINERS THAT ARE PRIMARILY COMPOSED OF ONE OR MORE**
3 **PLASTIC RESINS, ARE CAPABLE OF MAINTAINING THEIR SHAPE WHEN EMPTY, AND**
4 **ARE USED TO PACKAGE OR STORE FOOD.**

5 **(2) THIS SECTION DOES NOT APPLY TO:**

6 **(I) REFILLABLE RIGID PLASTIC FOOD CONTAINERS,**
7 **INCLUDING CONTAINERS THAT ARE SUFFICIENTLY DURABLE FOR MULTIPLE**
8 **ROTATIONS OF THEIR ORIGINAL PURPOSE OR A SIMILAR PURPOSE AND ARE**
9 **INTENDED TO FUNCTION IN A SYSTEM OF REUSE;**

10 **(II) RIGID PLASTIC CONTAINERS THAT CONTAIN DIETARY**
11 **SUPPLEMENTS; OR**

12 **(III) A PLASTIC BEVERAGE CONTAINER UNDER § 9-2604 OF THIS**
13 **SUBTITLE.**

14 **(B) THE MINIMUM POSTCONSUMER RECYCLED CONTENT PERCENTAGE**
15 **REQUIREMENT FOR RIGID PLASTIC CONTAINERS USED TO PACKAGE OR STORE FOOD**
16 **IS:**

17 **(1) FROM JANUARY 1, 2027, TO DECEMBER 31, 2029, BOTH**
18 **INCLUSIVE, 15%;**

19 **(2) FROM JANUARY 1, 2030, TO DECEMBER 31, 2032, BOTH**
20 **INCLUSIVE, 30%; AND**

21 **(3) ON AND AFTER JANUARY 1, 2033, 40%.**

22 **9-2606.**

23 **(A) (1) THIS SECTION APPLIES TO RIGID PLASTIC CONTAINERS OR OTHER**
24 **NONDURABLE CONTAINERS THAT ARE PRIMARILY COMPOSED OF ONE OR MORE**
25 **PLASTIC RESINS, ARE CAPABLE OF MAINTAINING THEIR SHAPE WHEN EMPTY, AND**
26 **ARE USED FOR HOUSEHOLD CLEANING PRODUCTS OR PERSONAL CARE PRODUCTS.**

27 **(2) THIS SECTION DOES NOT APPLY TO:**

28 **(I) REFILLABLE HOUSEHOLD CLEANING AND PERSONAL CARE**
29 **PRODUCT CONTAINERS, INCLUDING CONTAINERS THAT ARE SUFFICIENTLY**
30 **DURABLE FOR MULTIPLE ROTATIONS OF THEIR ORIGINAL PURPOSE OR A SIMILAR**
31 **PURPOSE AND ARE INTENDED TO FUNCTION IN A SYSTEM OF REUSE; AND**

1 (II) RIGID PLASTIC CONTAINERS THAT ARE MEDICAL DEVICES
2 OR THAT ARE USED FOR:

3 1. MEDICAL PRODUCTS THAT ARE REQUIRED TO BE
4 STERILE; OR

5 2. NONPRESCRIPTION OR PRESCRIPTION DRUGS.

6 (B) THE MINIMUM POSTCONSUMER RECYCLED CONTENT PERCENTAGE
7 REQUIREMENT FOR RIGID PLASTIC CONTAINERS IS:

8 (1) FROM JANUARY 1, 2027, TO DECEMBER 31, 2030, BOTH
9 INCLUSIVE, 25%;

10 (2) FROM JANUARY 1, 2031, TO DECEMBER 31, 2034, BOTH
11 INCLUSIVE, 30%; AND

12 (3) ON AND AFTER JANUARY 1, 2035, 35%.

13 9-2607.

14 THE DEPARTMENT MAY GRANT A TEMPORARY WAIVER FROM THE
15 REQUIREMENTS UNDER THIS SUBTITLE TO A PRODUCER IF THE DEPARTMENT
16 DETERMINES THAT ACHIEVING COMPLIANCE UNDER THIS SUBTITLE WOULD
17 PRESENT AN UNDUE HARDSHIP OR A PRACTICAL DIFFICULTY NOT GENERALLY
18 APPLICABLE TO OTHER PRODUCERS IN SIMILAR CIRCUMSTANCES.

19 9-2608.

20 (A) THE DEPARTMENT MAY:

21 (1) CONDUCT AUDITS AND INVESTIGATIONS FOR THE PURPOSE OF
22 ENSURING COMPLIANCE WITH THE REQUIREMENTS OF THIS SUBTITLE; AND

23 (2) PARTICIPATE IN THE ESTABLISHMENT AND IMPLEMENTATION OF
24 A MULTISTATE CLEARINGHOUSE TO ASSIST IN CARRYING OUT THE REQUIREMENTS
25 OF THIS SUBTITLE, INCLUDING TO:

26 (I) HELP COORDINATE THE REVIEW OF REGISTRATIONS,
27 WAIVER REQUESTS, AND CERTIFICATIONS; AND

28 (II) IMPLEMENT EDUCATION AND OUTREACH ACTIVITIES.

1 **(B) ON AN ANNUAL BASIS, THE DEPARTMENT SHALL PUBLISH ON ITS**
2 **WEBSITE:**

3 **(1) A LIST OF EACH REGISTERED PRODUCER OF A COVERED**
4 **PRODUCT AND ASSOCIATED BRAND NAMES;**

5 **(2) THE COMPLIANCE STATUS FOR EACH REGISTERED PRODUCER;**
6 **AND**

7 **(3) ANY OTHER INFORMATION DEEMED APPROPRIATE BY THE**
8 **DEPARTMENT.**

9 **9-2609.**

10 **THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THIS**
11 **SUBTITLE.**

12 **9-2610.**

13 **(A) (1) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE**
14 **PROVISIONS OF §§ 9-334 THROUGH 9-342 OF THIS TITLE APPLY TO ENFORCE**
15 **VIOLATIONS OF THIS SUBTITLE.**

16 **(2) A PENALTY MAY NOT BE IMPOSED ON A PRODUCER UNDER THIS**
17 **SECTION FOR FAILING TO REGISTER WITH THE DEPARTMENT UNDER § 9-2603 OF**
18 **THIS SUBTITLE UNLESS:**

19 **(I) THE DEPARTMENT FIRST ISSUES A WRITTEN NOTICE OF**
20 **VIOLATION TO THE PRODUCER; AND**

21 **(II) THE PRODUCER HAS NOT REGISTERED WITH THE**
22 **DEPARTMENT WITHIN 90 DAYS OF RECEIPT OF THE WRITTEN NOTICE.**

23 **(B) (1) BEGINNING JANUARY 1, 2026, A PRODUCER THAT DOES NOT**
24 **MEET THE MINIMUM POSTCONSUMER RECYCLED CONTENT PERCENTAGE**
25 **REQUIREMENTS ESTABLISHED UNDER THIS SUBTITLE IS SUBJECT TO AN**
26 **ADMINISTRATIVE PENALTY EACH YEAR THE VIOLATION OCCURS.**

27 **(2) AN ADMINISTRATIVE PENALTY IMPOSED UNDER THIS**
28 **SUBSECTION SHALL EQUAL THE PRODUCT OF MULTIPLYING:**

1 **(I) THE TOTAL POUNDS OF PLASTIC USED IN THE PRODUCT**
2 **CATEGORY MULTIPLIED BY THE RELEVANT MINIMUM POSTCONSUMER RECYCLED**
3 **CONTENT PERCENTAGE, LESS THE TOTAL POUNDS OF POSTCONSUMER RECYCLING**
4 **PLASTIC USED; AND**

5 **(II) 20 CENTS.**

6 **(3) THE DEPARTMENT MAY ADJUST THE ADMINISTRATIVE PENALTY**
7 **AMOUNT IMPOSED UNDER THIS SUBSECTION AS NECESSARY TO ENSURE THAT THE**
8 **ADMINISTRATIVE PENALTY EXCEEDS THE COST OF COMPLIANCE.**

9 **(4) (I) THE DEPARTMENT MAY GRANT A REDUCTION IN THE**
10 **ADMINISTRATIVE PENALTIES IMPOSED UNDER THIS SUBSECTION IF A PRODUCER**
11 **SUBMITS TO THE DEPARTMENT A CORRECTIVE ACTION PLAN AND THE**
12 **DEPARTMENT APPROVES THE CORRECTIVE ACTION PLAN.**

13 **(II) A CORRECTIVE ACTION PLAN SUBMITTED UNDER THIS**
14 **PARAGRAPH SHALL INCLUDE:**

15 **1. THE REASONS THE PRODUCER WILL FAIL TO MEET OR**
16 **FAILED TO MEET THE MINIMUM POSTCONSUMER RECYCLED CONTENT PERCENTAGE**
17 **REQUIREMENTS; AND**

18 **2. THE STEPS THAT THE PRODUCER WILL TAKE TO**
19 **COMPLY WITH THE REQUIREMENTS DURING THE SUBSEQUENT REPORTING YEAR.**

20 **(III) IN DETERMINING WHETHER TO GRANT A REDUCTION IN THE**
21 **ADMINISTRATIVE PENALTIES, THE DEPARTMENT SHALL CONSIDER:**

22 **1. ANOMALOUS MARKET CONDITIONS;**

23 **2. DISRUPTION IN SUPPLY OR LACK OF SUPPLY OF**
24 **RECYCLED PLASTICS;**

25 **3. EFFORTS UNDERTAKEN BY THE PRODUCER TO**
26 **INCREASE THE RECYCLABILITY OF THE PRODUCER'S PRODUCT AND THE SUPPLY OF**
27 **POSTCONSUMER RECYCLED PLASTIC; AND**

28 **4. OTHER FACTORS THAT PREVENT A PRODUCER FROM**
29 **MEETING THE MINIMUM POSTCONSUMER RECYCLED CONTENT PERCENTAGE**
30 **REQUIREMENTS.**

31 SECTION 2. AND BE IT FURTHER ENACTED, That:

1 (a) The Department of the Environment shall contract with a research university
2 or an independent third-party consultant to:

3 (1) evaluate the implementation of this Act and its effectiveness in
4 stimulating the recycling markets in the State and displacing virgin plastic with
5 postconsumer recycled content; and

6 (2) make recommendations for legislative or administrative actions, if any,
7 necessary to further the purpose of this Act.

8 (b) On or before October 1, 2029, the Department shall:

9 (1) report the findings and recommendations of the research university or
10 independent third-party consultant to the Governor, and, in accordance with § 2-1257 of
11 the State Government Article, the Senate Committee on Education, Energy, and the
12 Environment and the House Environment and Transportation Committee; and

13 (2) post the findings and recommendations on the Department's website.

14 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2024.