

Chapter 465

(Senate Bill 222)

AN ACT concerning

Environment – ~~Reducing Packaging Materials~~ – *Statewide Recycling Needs Assessment and Producer Responsibility for Packaging Materials*

FOR the purpose of ~~requiring certain producers of packaging materials to individually or as part of a producer responsibility organization submit a certain packaging materials producer responsibility plan to the Department of the Environment for review and approval on or before a certain date and in accordance with certain requirements; prohibiting, on or after a certain date, a producer of certain packaging materials from selling, offering for sale, distributing, or importing certain packaging materials unless the producer, individually or as part of a producer responsibility organization, has an approved producer responsibility plan on file with the Department; requiring a producer responsibility organization to pay certain costs to the Department; requiring a producer responsibility organization to implement a producer responsibility plan within a certain amount of time after the Department approves the producer responsibility plan; establishing a producer responsibility plan advisory council; authorizing a local government to request reimbursement from a certain producer that has an approved producer responsibility plan on file with the Department for certain costs in a certain manner; *altering the definition of “organics recycling” to include the processing of certain compostable packaging materials in a certain manner; requiring the Department of the Environment to approve a certain producer responsibility organization for certain purposes on or before a certain date; establishing a producer responsibility advisory council to provide advice and make recommendations regarding establishing and implementing a producer responsibility program in the State for packaging materials and to report to certain committees of the General Assembly on or before a certain date; requiring the Office of Recycling in the Department to hire an independent contractor to conduct certain statewide recycling needs assessments in a certain manner and to submit certain reports on the results of the assessments to the Governor and the General Assembly on or before certain dates* *a certain statewide recycling needs assessment in a certain manner and to submit a certain report to the Governor and the General Assembly on or before a certain date;* and generally relating to *a statewide recycling needs assessment and* producer responsibility for packaging materials.~~

BY repealing and reenacting, without amendments,

Article – Environment

Section 9–1701(a) ~~and (e)~~

Annotated Code of Maryland

(2014 Replacement Volume and 2022 Supplement)

BY repealing and reenacting, with amendments,

Article – Environment

Section ~~9-1702~~ 9-1701(n), ~~9-1702~~, and ~~9-1707(f)~~
 Annotated Code of Maryland
 (2014 Replacement Volume and 2022 Supplement)

BY adding to

Article – Environment

Section ~~9-1702.2~~ and 9-2501 through ~~9-2510~~ 9-2503 to be under the new subtitle
 “Subtitle 25. Producer Responsibility for Packaging Materials”

Annotated Code of Maryland
 (2014 Replacement Volume and 2022 Supplement)

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

Article – Environment

9-1701.

(a) In this subtitle the following words have the meanings indicated.

(n) (1) “Organics recycling” means any process in which organic materials OR COMPOSTABLE PACKAGING MATERIALS are collected, separated, or processed and returned to the marketplace in the form of raw materials or products.

(2) “Organics recycling” includes anaerobic digestion and composting.

~~(e) “Organics recycling facility” means a facility where organics recycling takes place.~~

~~9-1702.~~

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

~~(b) The Secretary shall appoint a Director and sufficient staff to perform the functions of the Office. After July 1, 1989, the number of staff shall be as provided in the budget.~~

~~(c) The Secretary may adopt regulations to carry out the provisions of this subtitle.~~

~~(d) The Office shall:~~

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

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

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

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

~~(5) Promote the development of markets for recycled materials and recycled products in the State in accordance with § 9-1702.1 of this subtitle;~~

~~**(6) CONDUCT PROCURE A STATEWIDE RECYCLING NEEDS ASSESSMENT IN ACCORDANCE WITH § 9-1702.2 OF THIS SUBTITLE; AND**~~

~~**(7) REVIEW AND APPROVE, IN CONSULTATION WITH THE PRODUCER RESPONSIBILITY PLAN ADVISORY COUNCIL ESTABLISHED UNDER § 9-2505 OF THIS TITLE, PRODUCER RESPONSIBILITY PLANS AND ANNUAL REPORTS SUBMITTED IN ACCORDANCE WITH SUBTITLE 25 OF THIS TITLE.**~~

~~(e) Beginning on January 1, 1990, and biannually thereafter, the Office shall, in coordination with the Maryland Environmental Service, study and report to the Governor and, subject to § 2-1257 of the State Government Article, the General Assembly on:~~

~~(1) The identification and location of recycling centers, including an analysis of existing recycling centers and the need to expand these facilities or construct new recycling centers;~~

~~(2) Programs necessary to educate the public on the need to participate in recycling efforts;~~

~~(3) The economics and financing of existing and proposed systems of waste disposal and recycling;~~

~~(4) State procurement policies for the purchase of recycled materials;~~

~~(5) Programs necessary to reduce the amount of solid waste generated for disposal by a State agency or unit;~~

~~(6) The liaison role with local governments, the federal government, and the private sector;~~

~~(7) The percentage reduction in the amount of solid waste that has been achieved by each county; and~~

~~(8) Economically feasible methods for the recycling of scrap automobile tires, batteries, and white goods.~~

~~(f) (1) By December 1, 1988, the Office shall, in coordination with the Maryland Environmental Service and the Governor's Task Force on Solid Waste, make recommendations to the General Assembly for the financing of a comprehensive system of recycling at the State and local level, including funding for recycling centers, recycling equipment, recycling education, and marketing strategies.~~

~~(2) After the financing recommendations are made under paragraph (1) of this subsection, each county may submit to the Office and the Governor a detailed request for funds necessary to assist in the development and implementation of a recycling plan under guidelines developed by the Office.~~

~~(g) In studying feasible methods for the management and recycling of used tires under subsection (c)(9) of this section, the Office of Recycling shall consult with the appropriate industry, including representatives of:~~

~~(1) Tire manufacturers;~~

~~(2) Tire dealers; and~~

~~(3) Tire recyclers.~~

~~9-1702.2.~~

~~(A) IN THIS SECTION, "ADVISORY COUNCIL" AND "PRODUCER RESPONSIBILITY ORGANIZATION" HAVE THE MEANINGS STATED IN § 9-2501 OF THIS TITLE.~~

~~(B) IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION AND TO CARRY OUT THE REQUIREMENTS OF § 9-1702(D)(6) OF THIS SUBTITLE, THE OFFICE SHALL HIRE AN INDEPENDENT CONSULTANT TO CONDUCT A STATEWIDE RECYCLING NEEDS ASSESSMENT AT LEAST ONCE EVERY 10 YEARS OR AS RECOMMENDED BY THE ADVISORY COUNCIL THAT INCLUDES:~~

~~(1) AN ANALYSIS OF THE STATE'S CURRENT SOLID WASTE STREAMS, INCLUDING:~~

~~(i) SOLID WASTE GENERATED IN THE STATE BY LOCAL JURISDICTION, TYPE, AND MATERIAL;~~

~~(ii) DISPOSAL METHODS BY MATERIAL TYPE AND AMOUNT; AND~~

~~(III) ASSOCIATED COSTS AND REVENUES FOR SOLID WASTE DISPOSAL PROGRAMS;~~

~~(2) AN ANALYSIS OF THE STATE'S CURRENT RECYCLING STREAMS, INCLUDING:~~

~~(I) RECYCLABLE MATERIALS PROCESSED BY LOCAL JURISDICTION, TYPE, AND AMOUNT;~~

~~(II) PROCESSING METHODS BY MATERIAL TYPE AND AMOUNT;~~

~~(III) ASSOCIATED COSTS AND REVENUES FOR RECYCLING PROGRAMS, COLLECTION, AND TIPPING FEES; AND~~

~~(IV) AN ESTIMATE OF THE AMOUNT OF RECYCLABLE MATERIALS THAT ARE NOT CURRENTLY BEING RECYCLED;~~

~~(1) (3) AN EVALUATION OF THE CURRENT INFRASTRUCTURE AND CAPACITY RELATED TO, NEED FOR, AND ASSOCIATED COSTS OF:~~

~~(I) RECYCLING ACCESS AND AVAILABILITY;~~

~~(II) COLLECTING AND HAULING RECYCLABLE OR COMPOSTABLE MATERIALS IN THE STATE;~~

~~(III) PROCESSING RECYCLABLE OR COMPOSTABLE MATERIALS IN THE STATE;~~

~~(IV) TAKING ADVANTAGE OF FAVORABLE MARKET CONDITIONS OR OTHER OPPORTUNITIES FOR INCREASING RECYCLING OR ORGANICS RECYCLING IN THE STATE;~~

~~(V) IN COORDINATION WITH LOCAL GOVERNMENTS, CONSUMER EDUCATION REGARDING RECYCLING, ORGANICS RECYCLING, AND CONTAMINATION REDUCTION;~~

~~(VI) REUSE INFRASTRUCTURE; AND~~

~~(VII) ORGANICS RECYCLING INFRASTRUCTURE;~~

~~(2) (4) AN EVALUATION OF COMMINGLED RECYCLING PROCESSING FACILITY WORKER CONDITIONS, WAGES, AND BENEFITS;~~

~~(3) (5) AN EVALUATION OF OPPORTUNITIES IN THE RECYCLING SYSTEM FOR WOMEN AND MINORITY INDIVIDUALS;~~

~~(4) (6) AN EVALUATION OF LOCAL GOVERNMENT REQUIREMENTS RELATED TO MULTIFAMILY AND COMMERCIAL RECYCLING SERVICES AND THEIR IMPLEMENTATION;~~

~~(5) (7) THE SUFFICIENCY OF RECYCLING EDUCATION PROGRAMS RELATIVE TO DESIRED EQUITY OUTCOMES;~~

~~(6) AN EVALUATION OF OPPORTUNITIES IN THE RECYCLING SYSTEM FOR BUSINESSES IN THE STATE; AND~~

~~(8) AN EVALUATION OF THE ECONOMIC OPPORTUNITIES IN THE STATE'S RECYCLING SYSTEM, INCLUDING:~~

~~(I) STATE AND LOCAL REVENUE THAT MAY BE CONSIDERED LOST BECAUSE RECYCLABLE MATERIALS ARE NOT BEING RECYCLED;~~

~~(II) CURRENT JOBS ASSOCIATED WITH THE SOLID WASTE AND RECYCLING INDUSTRIES;~~

~~(III) OPPORTUNITIES TO INCREASE EMPLOYMENT IN THE RECYCLING INDUSTRY BY MATERIAL TYPE;~~

~~(IV) BUSINESS OPPORTUNITIES ASSOCIATED WITH RECYCLING;~~

~~(V) BARRIERS TO INCREASING THE USE OF RECYCLABLE MATERIALS AS FEEDSTOCK FOR PRINCIPAL PROCESSORS AND MANUFACTURERS AND MEANS OF ELIMINATING THOSE BARRIERS; AND~~

~~(VI) RECOMMENDATIONS FOR INCENTIVES TO STIMULATE JOB GROWTH AND BUSINESS OPPORTUNITIES IN THE STATE'S RECYCLING INDUSTRY;~~

~~(7) (9) RECOMMENDATIONS FOR IMPROVING EQUITY AND EQUITABLE OUTCOMES FOR UNDERSERVED POPULATIONS IN THE STATE'S RECYCLING SYSTEM, INCLUDING RECOMMENDATIONS FOR NEW RESPONSIBILITIES OF PRODUCER RESPONSIBILITY ORGANIZATIONS AND RECOMMENDATIONS FOR FUNDING THE NEW RESPONSIBILITIES. RESPONSIBILITIES;~~

~~(10) AN ANALYSIS OF THE COSTS AND BENEFITS OF IMPLEMENTING AN EXTENDED PRODUCER RESPONSIBILITY PROGRAM, INCLUDING TO:~~

~~(I) LOCAL GOVERNMENTS;~~

~~(II) WASTE PRODUCERS;~~

~~(III) RESIDENTS; AND~~

~~(IV) WASTE MANAGEMENT COMPANIES;~~

~~(11) AN ANALYSIS OF THE POTENTIAL ENVIRONMENTAL IMPACT OF AN EXTENDED PRODUCER RESPONSIBILITY PROGRAM, INCLUDING THROUGH:~~

~~(I) INCREASED RECYCLING;~~

~~(II) RESOURCE RECOVERY;~~

~~(III) WASTE REDUCTION; AND~~

~~(IV) REDUCED ENVIRONMENTAL DAMAGE;~~

~~(12) RECOMMENDATIONS ON THE BEST PRACTICES TO FOLLOW FROM SUCCESSFUL EXTENDED PRODUCER RESPONSIBILITY PROGRAMS IN OTHER STATES AND COUNTRIES; AND~~

~~(13) BASED ON THE DATA COLLECTED UNDER ITEM (3) OF THIS SUBSECTION, A RECOMMENDATION ON A REASONABLE ANNUAL RATE PER TON OF RECYCLED OR COMPOSTED PACKAGING MATERIALS, TO BE INCLUDED IN THE PRODUCER RESPONSIBILITY PLANS REQUIRED UNDER § 9-2504 OF THIS TITLE, FOR REIMBURSING LOCAL GOVERNMENTS FOR COSTS ASSOCIATED WITH:~~

~~(I) COLLECTING PACKAGING MATERIALS THAT ARE IDENTIFIED IN PLANS;~~

~~(II) TRANSPORTING RECYCLABLE OR COMPOSTABLE PACKAGING MATERIALS IDENTIFIED IN THE PLANS; AND~~

~~(III) PROCESSING RECYCLABLE OR COMPOSTABLE PACKAGING MATERIALS IDENTIFIED IN THE PLANS, INCLUDING REMOVING CONTAMINATION.~~

~~(C) ON OR BEFORE APRIL 1, 2025, AND EACH APRIL 1 EVERY 10 YEARS THEREAFTER OR AS RECOMMENDED BY THE ADVISORY COUNCIL, THE OFFICE SHALL REPORT ON THE RESULTS OF THE MOST RECENT ASSESSMENT CONDUCTED UNDER THIS SECTION TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.~~

~~(D) IN CONDUCTING THE ASSESSMENT REQUIRED UNDER THIS SECTION, THE OFFICE INDEPENDENT CONSULTANT SHALL CONSULT WITH PRODUCER RESPONSIBILITY ORGANIZATIONS, THE PRODUCER RESPONSIBILITY PLAN ADVISORY COUNCIL ESTABLISHED UNDER § 9-2505 OF THIS TITLE, APPROPRIATE LOCAL GOVERNMENTAL ENTITIES, AND REGIONAL SOLID WASTE ORGANIZATIONS IN THE STATE.~~

~~(E) (1) THE SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE OFFICE SHALL ESTABLISH AND COLLECT A FEE TO BE PAID BY PRODUCER RESPONSIBILITY ORGANIZATIONS TO COVER THE COSTS ASSOCIATED WITH CONDUCTING THE ASSESSMENTS REQUIRED UNDER THIS SECTION.~~

~~(2) BEFORE ESTABLISHING AND COLLECTING A FEE UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE OFFICE SHALL:~~

~~(I) PUBLISH A PROPOSED FEE ON ITS WEBSITE; AND~~

~~(II) ALLOW 90 CALENDAR DAYS FOR PUBLIC COMMENT.~~

~~9-1707.~~

~~(F) (1) There is a State Recycling Trust Fund.~~

~~(2) The Fund shall consist of:~~

~~(i) The newspaper recycling incentive fee;~~

~~(ii) The telephone directory recycling incentive fee collected under § 9-1709 of this subtitle;~~

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

~~(IV) ANY FEES COLLECTED FROM PRODUCER RESPONSIBILITY ORGANIZATIONS UNDER § 9-1702.2 OF THIS SUBTITLE OR SUBTITLE 25 OF THIS TITLE;~~

~~[(iv)] (V) All fines and penalties collected under this subtitle AND § 9-2510 OF THIS TITLE;~~

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

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

~~(3) The Secretary shall administer the Fund.~~

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

~~(5) At the end of each fiscal year, any unspent or unencumbered balance in the Fund that exceeds \$2,000,000 shall revert to the General Fund of the State in accordance with § 7-302 of the State Finance and Procurement Article.~~

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

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

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

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

~~(iv) IN ACCORDANCE WITH PARAGRAPH (7) OF THIS SUBSECTION, TO COVER THE COSTS OF THE STATEWIDE RECYCLING NEEDS ASSESSMENT CONDUCTED UNDER § 9-1702.2 OF THIS SUBTITLE;~~

~~(v) IN ACCORDANCE WITH PARAGRAPH (7) OF THIS SUBSECTION, TO COVER THE COSTS OF PRODUCER RESPONSIBILITY PLAN REVIEW, OVERSIGHT, AND ENFORCEMENT UNDER SUBTITLE 25 OF THIS TITLE; AND~~

~~[(iv)] (vi) To carry out the purposes of the land management administration.~~

~~(7) (i) THERE SHALL BE A SEPARATE ACCOUNT WITHIN THE FUND.~~

~~(ii) THE SEPARATE ACCOUNT SHALL CONSIST OF:~~

~~1. ANY FEES COLLECTED FROM PRODUCER RESPONSIBILITY ORGANIZATIONS UNDER § 9-1702.2 OF THIS SUBTITLE OR SUBTITLE 25 OF THIS TITLE; AND~~

~~2. ALL FINES AND PENALTIES COLLECTED UNDER § 9-2510 OF THIS TITLE.~~

~~(III) THE SEPARATE ACCOUNT SHALL BE USED ONLY FOR THE COSTS OF THE STATEWIDE RECYCLING NEEDS ASSESSMENT CONDUCTED UNDER § 9-1702.2 OF THIS SUBTITLE AND PRODUCER RESPONSIBILITY PLAN REVIEW, OVERSIGHT, AND ENFORCEMENT UNDER SUBTITLE 25 OF THIS TITLE.~~

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

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

SUBTITLE 25. PRODUCER RESPONSIBILITY FOR PACKAGING MATERIALS.

9-2501.

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

(B) “ADVISORY COUNCIL” MEANS THE PRODUCER RESPONSIBILITY PLAN ADVISORY COUNCIL ESTABLISHED UNDER § ~~9-2505~~ 9-2503 OF THIS SUBTITLE.

~~(C) “BEVERAGE CONTAINER” MEANS A PREPACKAGED BEVERAGE CONTAINER:~~

~~(1) MADE OF ANY MATERIAL, INCLUDING GLASS, PLASTIC, METAL, CARTON, POUCH, OR ASEPTIC PACKAGING, SUCH AS A DRINK BOX, OR OF MULTIMATERIALS; AND~~

~~(2) THE VOLUME OF WHICH IS NOT MORE THAN 5 LITERS.~~

~~(D)~~ (C) “LOCAL GOVERNMENT” MEANS:

(1) A COUNTY; OR

(2) A MUNICIPALITY.

~~(D) “MATERIALS RECYCLING FACILITY” MEANS A FACILITY THAT RECEIVES RECYCLABLE MATERIALS FOR MECHANICAL OR MANUAL SORTING INTO SPECIFICATION GRADE COMMODITIES FOR SALE TO A BROKER OR END MARKET.~~

~~(E)~~ (D) “ORGANICS RECYCLING” AND “ORGANICS RECYCLING FACILITY” HAVE THE MEANINGS HAS THE MEANING STATED IN § 9-1701 OF THIS TITLE.

~~(F) “PACKAGING MATERIAL WASTE” MEANS THE PERCENTAGE OF THE TOTAL WEIGHT OF PACKAGING MATERIALS SOLD OR DISTRIBUTED IN THE STATE THAT ARE NOT RECYCLED, REUSED, OR COMPOSTED.~~

~~(E)~~ ~~(G)~~ (E) (1) “PACKAGING MATERIALS” MEANS, REGARDLESS OF RECYCLABILITY, ANY PART OF A PACKAGE OR CONTAINER, INCLUDING MATERIAL THAT IS USED FOR THE CONTAINMENT, PROTECTION, HANDLING, DELIVERY, AND PRESENTATION OF A PRODUCT THAT IS SOLD, OFFERED FOR SALE, IMPORTED, OR DISTRIBUTED IN THE STATE.

(2) “PACKAGING MATERIALS” INCLUDES:

(I) PRIMARY, SECONDARY, AND TERTIARY PACKAGING INTENDED FOR THE CONSUMER MARKET;

(II) SERVICE PACKAGING DESIGNED AND INTENDED TO BE FILLED AT THE POINT OF SALE, INCLUDING:

1. CARRY-OUT BAGS;

2. BULK GOODS BAGS; AND

3. TAKE-OUT AND HOME DELIVERY FOOD SERVICE PACKAGING; AND

(III) BEVERAGE CONTAINERS.

(3) “PACKAGING MATERIALS” DOES NOT ~~INCLUDE ANY~~ INCLUDE:

(I) ANY PART OF A PACKAGE OR CONTAINER THAT IS SOLD OR SUPPLIED IN CONNECTION WITH:

~~(H)~~ 1. A PESTICIDE PRODUCT REGULATED BY THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT UNDER 7 U.S.C. § 136 ET SEQ. OR ANY OTHER APPLICABLE FEDERAL LAW, RULE, OR REGULATION;

~~(H)~~ 2. A FEDERALLY REGULATED DRUG, MEDICAL DEVICE, BIOLOGIC, ~~OR~~ DIAGNOSTIC, OR DIETARY SUPPLEMENT INCLUDING ITEMS INTENDED FOR ANIMALS; OR

~~(H)~~ 3. A MEDICAL PRODUCT THAT IS REQUIRED TO BE STERILE OR ENCLOSED IN PACKAGING WITH TAMPER-RESISTANT SEALS TO PROTECT PUBLIC HEALTH, INCLUDING MEDICAL PRODUCTS INTENDED FOR ANIMALS; OR

(II) LIQUEFIED PETROLEUM GAS CONTAINERS THAT ARE DESIGNED TO BE REFILLED.

~~(F) (H) (F)~~ (1) “PRODUCER” MEANS A PERSON THAT IS RESPONSIBLE FOR COMPLYING WITH THIS SUBTITLE UNDER ~~§ 9-2503~~ OF THIS SUBTITLE:

(I) WITH RESPECT TO PACKAGING MATERIALS USED TO DIRECTLY PROTECT OR CONTAIN A PRODUCT SOLD, OFFERED FOR SALE, OR DISTRIBUTED IN THE STATE:

1. A. HAS LEGAL OWNERSHIP OF THE BRAND OF THE PRODUCT UNDER WHICH THE PRODUCT IS SOLD; OR

B. IS THE MANUFACTURER OF THE PRODUCT, IF THE PRODUCT IS SOLD IN PACKAGING MATERIALS THAT LACK IDENTIFICATION OF THE BRAND;

2. IS THE LICENSEE OF THE BRAND OR TRADEMARK UNDER WHICH THE PRODUCT IS SOLD, WHETHER OR NOT THE TRADEMARK IS REGISTERED IN THE STATE, IF THE PRODUCT IS MANUFACTURED BY A PERSON OTHER THAN THE BRAND OWNERS; OR

3. IS THE PERSON THAT IMPORTS THE PRODUCT INTO THE UNITED STATES FOR USE IN A COMMERCIAL ENTERPRISE THAT SELLS, OFFERS FOR SALE, OR DISTRIBUTES THE ITEM IN THE STATE, IF THERE IS NO PERSON DESCRIBED IN SUBSUBPARAGRAPHS 1 AND 2 OF THIS SUBPARAGRAPH; AND

(II) WITH RESPECT TO PACKAGING MATERIALS USED TO SHIP A PRODUCT TO A CONSUMER IN THE STATE, IS THE PERSON THAT PACKAGES AND SHIPS THE PRODUCT.

(2) “PRODUCER” DOES NOT INCLUDE:

(I) A LOCAL GOVERNMENT;

(II) A NONPROFIT CHARITABLE ORGANIZATION; ~~OR~~

(III) AN ENTITY THAT MANUFACTURES A DRUG OR DEVICE AUTHORIZED FOR SALE BY THE U.S. FOOD AND DRUG ADMINISTRATION UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT;

(IV) AN ENTITY THAT GENERATED LESS THAN \$5,000,000 IN GROSS REVENUE DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR;

(V) AN ENTITY THAT SOLD, OFFERED FOR SALE, OR DISTRIBUTED FOR SALE IN THE STATE DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR LESS THAN 1 METRIC TON OF PACKAGING MATERIALS;

(VI) 1. AN ENTITY THAT OWNS OR OPERATES A RESTAURANT, FOOD CART, OR SIMILAR ESTABLISHMENT THAT:

A. IS HEADQUARTERED IN THE STATE; AND

B. PRIMARILY SELLS TO MEMBERS OF THE PUBLIC FOOD THAT IS GENERALLY INTENDED TO BE CONSUMED IMMEDIATELY AND WITHOUT THE NEED FOR FURTHER PREPARATION, EITHER ON OR OFF THE PREMISES; AND

2. IS NOT A PRODUCER OF FOOD SERVICWARE;

(VII) AN ENTITY THAT OWNS OR OPERATES A SINGLE RETAIL SALES ESTABLISHMENT THAT:

1. HAS NO ONLINE SALES; AND

2. IS NOT SUPPLIED OR OPERATED AS PART OF A FRANCHISE OR A CHAIN; OR

(VIII) 1. AN ENTITY THAT IS LICENSED UNDER TITLE 2 OF THE ALCOHOLIC BEVERAGES ARTICLE; AND

2. GENERATED LESS THAN \$10,000,000 IN GROSS REVENUE DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR; OR

(IX) AN ENTITY THAT HAS EXECUTED AN AGREEMENT WITH ANOTHER ENTITY, UNDER WHICH THE OTHER ENTITY HAS AGREED TO ASSUME RESPONSIBILITY UNDER A PRODUCER RESPONSIBILITY PROGRAM FOR ANY PACKAGING MATERIALS ATTRIBUTABLE TO THE FIRST ENTITY.

~~(C) (1) "PRODUCER RESPONSIBILITY ORGANIZATION" MEANS:~~

~~(1) A PRODUCER THAT INDIVIDUALLY SUBMITS A PRODUCER RESPONSIBILITY PLAN TO THE DEPARTMENT UNDER § 9-2504 OF THIS SUBTITLE; OR~~

~~(2) (G)~~ ~~A~~ **“PRODUCER RESPONSIBILITY ORGANIZATION” MEANS A NONPROFIT ORGANIZATION THAT IS:**

~~(1)~~ **EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE; AND**

~~(2)~~ **CREATED BY A GROUP OF PRODUCERS TO IMPLEMENT A PRODUCER RESPONSIBILITY PLAN IN ACCORDANCE WITH § 9-2504(A) OF THIS SUBTITLE REPRESENT THE INTERESTS OF PRODUCERS UNDER THIS SUBTITLE.**

~~(J)~~ **“PRODUCER RESPONSIBILITY PLAN” MEANS A PACKAGING MATERIALS PRODUCER RESPONSIBILITY PLAN SUBMITTED TO THE DEPARTMENT BY A PRODUCER OR PRODUCER RESPONSIBILITY ORGANIZATION IN ACCORDANCE WITH § 9-2504 OF THIS SUBTITLE.**

~~9-2502.~~

~~IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THIS SUBTITLE PROVIDE A FRAMEWORK FOR:~~

~~(1) MODERNIZING AND IMPROVING WASTE AND RECYCLING SYSTEMS IN THE STATE, INCLUDING BY FACILITATING:~~

~~(i) THE IMPROVEMENT OF REUSE, ORGANICS RECYCLING, AND RECYCLING;~~

~~(ii) THE IMPROVEMENT OF RECYCLING MARKETS;~~

~~(iii) THE REDUCTION OF WASTE; AND~~

~~(iv) AN INCREASE IN RECYCLING RATES; AND~~

~~(2) REIMBURSING LOCAL GOVERNMENTS FOR COSTS ASSOCIATED WITH TRANSPORTING, COLLECTING, AND PROCESSING PACKAGING MATERIALS.~~

~~9-2503.~~

~~(A) (1) (i) THIS PARAGRAPH APPLIES TO ITEMS SOLD IN PACKAGING MATERIALS AT A PHYSICAL RETAIL LOCATION IN THE STATE.~~

~~(ii) IF THE ITEM IS SOLD UNDER THE MANUFACTURER’S OWN BRAND OR IS SOLD IN PACKAGING MATERIALS THAT LACK IDENTIFICATION OF A~~

~~BRAND, THE PRODUCER OF THE PACKAGING MATERIALS IS THE PERSON THAT MANUFACTURES THE ITEM.~~

~~(III) IF THE ITEM IS MANUFACTURED BY A PERSON OTHER THAN THE BRAND OWNER, THE PRODUCER OF THE PACKAGING MATERIALS IS THE PERSON THAT IS THE LICENSEE OF A BRAND OR TRADEMARK UNDER WHICH AN ITEM IS SOLD, OFFERED FOR SALE, OR DISTRIBUTED IN THE STATE, WHETHER OR NOT THE TRADEMARK IS REGISTERED IN THE STATE.~~

~~(IV) IF THERE IS NO PERSON DESCRIBED IN SUBPARAGRAPHS (II) OR (III) OF THIS PARAGRAPH LOCATED WITHIN THE UNITED STATES, THE PRODUCER OF THE PACKAGING MATERIALS IS THE PERSON THAT IMPORTS THE ITEM INTO THE UNITED STATES FOR USE IN A COMMERCIAL ENTERPRISE THAT SELLS, OFFERS FOR SALE, OR DISTRIBUTES THE ITEM IN THE STATE.~~

~~(2) (I) THIS PARAGRAPH APPLIES TO ITEMS SOLD OR DISTRIBUTED IN PACKAGING MATERIALS IN THE STATE THROUGH REMOTE SALE OR DISTRIBUTION.~~

~~(II) THE PRODUCER OF THE PACKAGING MATERIALS USED TO DIRECTLY PROTECT OR CONTAIN THE ITEM IS THE SAME AS THE PRODUCER ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION.~~

~~(III) THE PRODUCER OF THE PACKAGING MATERIALS USED TO SHIP THE ITEM TO A CONSUMER IS THE PERSON THAT PACKAGES AND SHIPS THE ITEM TO THE CONSUMER.~~

~~(IV) FOR ANY PACKAGING MATERIALS NOT IDENTIFIED UNDER SUBPARAGRAPHS (II) AND (III) OF THIS PARAGRAPH, THE PRODUCER OF THE PACKAGING MATERIALS IS THE PERSON THAT FIRST DISTRIBUTES THE PACKAGED ITEM IN THE STATE.~~

~~(B) THIS SUBTITLE DOES NOT APPLY TO A PERSON THAT:~~

~~(1) (I) GENERATED LESS THAN \$5,000,000 IN GROSS REVENUE DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR;~~

~~(II) SOLD, OFFERED FOR SALE, OR DISTRIBUTED FOR SALE IN THE STATE DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR LESS THAN 1 METRIC TON OF PACKAGING MATERIALS;~~

~~(III) 1. OWNS OR OPERATES A RESTAURANT, FOOD CART, OR SIMILAR ESTABLISHMENT THAT:~~

~~A. IS HEADQUARTERED IN THE STATE; AND~~

~~B. PRIMARILY SELLS TO MEMBERS OF THE PUBLIC FOOD THAT IS GENERALLY INTENDED TO BE CONSUMED IMMEDIATELY AND WITHOUT THE NEED FOR FURTHER PREPARATION, EITHER ON OR OFF THE PREMISES; AND~~

~~2. IS NOT A PRODUCER OF FOOD SERVICEWARE;~~

~~(IV) OWNS OR OPERATES A SINGLE RETAIL SALES ESTABLISHMENT THAT:~~

~~1. HAS NO ONLINE SALES; AND~~

~~2. IS NOT SUPPLIED OR OPERATED AS PART OF A FRANCHISE OR A CHAIN; OR~~

~~(V) 1. IS LICENSED UNDER TITLE 2 OF THE ALCOHOLIC BEVERAGES ARTICLE; AND~~

~~2. GENERATED LESS THAN \$10,000,000 IN GROSS REVENUE DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR; AND~~

~~(2) ON REQUEST BY THE DEPARTMENT, PROVIDES TO THE DEPARTMENT SUFFICIENT INFORMATION TO DEMONSTRATE THAT THE PRODUCER MEETS THE CONDITIONS OF THIS SECTION.~~

~~(C) THIS SUBTITLE DOES NOT AFFECT THE AUTHORITY OF THE STATE OR A LOCAL JURISDICTION TO REGULATE THE SALE OR USE OF ANY PACKAGING MATERIAL.~~

~~(D) THIS SUBTITLE DOES NOT PROHIBIT A PRODUCER RESPONSIBILITY ORGANIZATION FROM ESTABLISHING A DEPOSIT RETURN SYSTEM AS ONE STRATEGY FOR INCREASING THE CAPTURE AND RECYCLING OF BEVERAGE CONTAINERS OR OTHER PACKAGING MATERIALS.~~

~~(D) THIS SUBTITLE MAY NOT BE CONSTRUED TO:~~

~~(1) PROHIBIT A LOCAL GOVERNMENT OR ANY OTHER ENTITY FROM SELLING RECYCLED MATERIALS OR COMPOST TO END MARKETS AND RETAINING THE REVENUES FROM THOSE SALES;~~

~~(2) AFFECT THE AUTHORITY OF A PUBLICLY OR PRIVATELY OWNED MATERIALS RECYCLING FACILITY OR ORGANICS RECYCLING FACILITY TO DETERMINE WHICH ENTITIES MAY USE THE FACILITY; OR~~

~~(3) LIMIT THE ABILITY OF LOCAL GOVERNMENTS, MATERIALS RECYCLING FACILITIES, OR ORGANICS RECYCLING FACILITIES TO MAKE DECISIONS ON RECYCLING INFRASTRUCTURE PURCHASES, INCLUDING PROCESSING EQUIPMENT.~~

~~9-2504.~~

~~(A) (1) ON OR BEFORE JUNE 30, 2024, THE DEPARTMENT SHALL APPROVE A SINGLE PRODUCER RESPONSIBILITY ORGANIZATION TO FULFILL THE REQUIREMENTS OF THIS SUBSECTION.~~

~~(2) (I) BEGINNING JULY 1, 2024, AND EACH YEAR THEREAFTER, A THE PRODUCER RESPONSIBILITY ORGANIZATION SHALL FILE A REGISTRATION FORM WITH THE DEPARTMENT.~~

~~(H) THE REGISTRATION FORM SHALL INCLUDE:~~

~~1. A LIST OF THE RESPONSIBLE PARTIES PRODUCERS PARTICIPATING IN THE PRODUCER RESPONSIBILITY ORGANIZATION;~~

~~2. A LIST OF THE BRANDS OF EACH RESPONSIBLE PARTY PRODUCER PARTICIPATING IN THE PRODUCER RESPONSIBILITY ORGANIZATION;~~

~~3. A LIST OF THE COVERED MATERIALS OF EACH RESPONSIBLE PARTY PRODUCER PARTICIPATING IN THE PRODUCER RESPONSIBILITY ORGANIZATION; AND~~

~~4. THE NAME, ADDRESS, AND CONTACT INFORMATION OF A PERSON RESPONSIBLE FOR ENSURING THE PRODUCER RESPONSIBILITY ORGANIZATION'S AND THE MEMBER RESPONSIBLE PARTIES' PRODUCERS' COMPLIANCE WITH THIS SUBTITLE.~~

~~(III) AT SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AT THE TIME OF FILING THE REGISTRATION FORM, A THE PRODUCER RESPONSIBILITY ORGANIZATION SHALL PAY TO THE DEPARTMENT AN ANNUAL REGISTRATION FEE TO COVER THE COSTS OF RECORD KEEPING, NOT TO EXCEED \$1,000.~~

~~(IV) AT THE TIME OF THE INITIAL SUBMISSION OF THE REGISTRATION FORM BY A THE PRODUCER RESPONSIBILITY ORGANIZATION, THE ORGANIZATION SHALL HAVE 60 DAYS TO PAY TO THE DEPARTMENT THE ESTIMATED~~

~~COST OF CONDUCTING THE INITIAL STATEWIDE RECYCLING NEEDS ASSESSMENT REQUIRED UNDER § 9-1702.2 OF THIS TITLE.~~

~~(v) IF MORE THAN ONE PRODUCER RESPONSIBILITY ORGANIZATION REGISTERS WITH THE DEPARTMENT, THE DEPARTMENT SHALL EQUALLY DIVIDE THE COST OF THE STATEWIDE RECYCLING NEEDS ASSESSMENT.~~

~~(3) BEFORE ESTABLISHING AND COLLECTING AN ANNUAL REGISTRATION FEE UNDER PARAGRAPH (2)(III) OF THIS SUBSECTION, THE DEPARTMENT SHALL:~~

~~(i) PUBLISH A PROPOSED FEE ON ITS WEBSITE; AND~~

~~(ii) ALLOW 90 CALENDAR DAYS FOR PUBLIC COMMENT.~~

~~(4) (i) ON OR AFTER JULY 1, 2030, A NONPROFIT ORGANIZATION MAY REQUEST THAT THE DEPARTMENT DESIGNATE THE NONPROFIT ORGANIZATION AS AN ADDITIONAL PRODUCER RESPONSIBILITY ORGANIZATION.~~

~~(ii) THE DEPARTMENT MAY DESIGNATE A NONPROFIT ORGANIZATION AS AN ADDITIONAL PRODUCER RESPONSIBILITY ORGANIZATION IF THE DEPARTMENT DETERMINES, IN COORDINATION WITH THE ADVISORY COUNCIL ESTABLISHED UNDER § 9-2505 OF THIS SUBTITLE, THAT THE DESIGNATION OF THE ADDITIONAL PRODUCER RESPONSIBILITY ORGANIZATION IS NECESSARY TO:~~

~~1. INCREASE RECYCLING RATES; OR~~

~~2. IMPROVE RECYCLING SERVICES FOR A SPECIFIC TYPE OF PACKAGING MATERIAL.~~

~~(iii) IF THE DEPARTMENT APPROVES THE DESIGNATION OF AN ADDITIONAL PRODUCER RESPONSIBILITY ORGANIZATION UNDER THIS SUBSECTION, THE PRODUCER RESPONSIBILITY ORGANIZATION SHALL:~~

~~1. NOT LATER THAN 30 DAYS AFTER BEING APPROVED BY THE DEPARTMENT AND ON OR BEFORE JULY 1 EACH YEAR THEREAFTER, FILE A REGISTRATION FORM WITH THE DEPARTMENT CONTAINING THE INFORMATION REQUIRED UNDER PARAGRAPH (2)(I) OF THIS SUBSECTION AND PAY THE ANNUAL REGISTRATION FEE DESCRIBED IN PARAGRAPH (2)(III) OF THIS SUBSECTION; AND~~

~~2. COORDINATE WITH THE PRODUCER RESPONSIBILITY ORGANIZATION ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT, AND LOCAL GOVERNMENTS TO ENSURE THAT:~~

~~A. RECYCLING SERVICES FOR RESIDENTS OF THE STATE ARE PROVIDED IN A SEAMLESS MANNER; AND~~

~~B. PUBLIC OUTREACH, EDUCATION, AND COMMUNICATION ARE PROVIDED IN A CONSISTENT MANNER.~~

~~(IV) THE PRODUCER RESPONSIBILITY ORGANIZATION ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION AND ANY ADDITIONAL PRODUCER RESPONSIBILITY ORGANIZATIONS DESIGNATED UNDER THIS PARAGRAPH MAY CREATE A REPRESENTATIVE ORGANIZATION TO REPRESENT THE PARTICIPATING PRODUCER RESPONSIBILITY ORGANIZATIONS TO IMPLEMENT THE REQUIREMENTS OF THIS SUBTITLE.~~

~~(2) (B) (1) (1) ON OR BEFORE APRIL 1, 2026, AND EVERY 5 YEARS THEREAFTER, EACH PRODUCER SHALL, INDIVIDUALLY OR AS PART OF A PRODUCER RESPONSIBILITY ORGANIZATION, SUBMIT A PRODUCER RESPONSIBILITY PLAN TO THE DEPARTMENT FOR REVIEW AND APPROVAL.~~

~~(H) IF MORE THAN ONE PRODUCER RESPONSIBILITY ORGANIZATION SUBMITS A PRODUCER RESPONSIBILITY PLAN TO THE DEPARTMENT:~~

~~1. THE PRODUCER RESPONSIBILITY ORGANIZATIONS SHALL COORDINATE WITH THE DEPARTMENT AND LOCAL GOVERNMENTS TO ENSURE THAT:~~

~~A. RECYCLING SERVICES FOR RESIDENTS IN THE STATE ARE PROVIDED IN A SEAMLESS MANNER; AND~~

~~B. PUBLIC OUTREACH, EDUCATION, AND COMMUNICATION ARE PROVIDED IN A CONSISTENT MANNER; AND~~

~~2. THE PRODUCER RESPONSIBILITY ORGANIZATIONS MAY CREATE A REPRESENTATIVE ORGANIZATION TO REPRESENT ALL PARTICIPATING PRODUCER RESPONSIBILITY ORGANIZATIONS TO IMPLEMENT THE REQUIREMENTS OF THIS SUBTITLE.~~

~~(III) (2) BEFORE SUBMITTING THE PLAN REQUIRED UNDER THIS SUBSECTION TO THE DEPARTMENT, A PRODUCER OR PRODUCER RESPONSIBILITY ORGANIZATION SHALL:~~

~~1. (I) CONSULT WITH THE ADVISORY COUNCIL ESTABLISHED UNDER § 9-2505 OF THIS SUBTITLE; AND~~

~~2. (H) CONSIDER THE WRITTEN RECOMMENDATIONS OF THE ADVISORY COUNCIL PROVIDED UNDER § 9-2505(C)(6) OF THIS SUBTITLE AND RESPOND IN WRITING TO THE ADVISORY COUNCIL.~~

~~(3) (I) ON EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, ON OR AFTER A DATE ESTABLISHED IN REGULATIONS ADOPTED BY THE DEPARTMENT UNDER § 9-2509 OF THIS SUBTITLE, A PRODUCER MAY NOT SELL, OFFER FOR SALE, DISTRIBUTE, OR IMPORT FOR SALE OR DISTRIBUTION PACKAGING MATERIALS FOR USE IN THE STATE UNLESS THE PRODUCER, INDIVIDUALLY OR AS PART OF A PRODUCER RESPONSIBILITY ORGANIZATION, HAS AN APPROVED PRODUCER RESPONSIBILITY PLAN ON FILE WITH THE DEPARTMENT.~~

~~(II) A PRODUCER IS NOT REQUIRED TO SUBMIT A PRODUCER RESPONSIBILITY PLAN TO THE DEPARTMENT, INDIVIDUALLY OR AS PART OF A PRODUCER RESPONSIBILITY ORGANIZATION, IF ANOTHER PERSON HAS AGREED TO ASSUME RESPONSIBILITY UNDER THIS SUBTITLE FOR ANY PACKAGING MATERIAL SOLD, OFFERED FOR SALE, OR DISTRIBUTED IN OR INTO THE STATE BY THAT PRODUCER.~~

~~(B) (C) A PRODUCER RESPONSIBILITY PLAN SHALL:~~

~~(1) IDENTIFY THE PRODUCERS COVERED BY THE PLAN, INCLUDING THE CONTACT INFORMATION FOR EACH PARTICIPATING PRODUCER AND THE PRODUCER RESPONSIBILITY ORGANIZATION;~~

~~(2) IDENTIFY EACH BRAND OF PACKAGING MATERIALS COVERED BY THE PLAN;~~

~~(3) REQUIRE, IN ACCORDANCE WITH SUBSECTION (C) (D) OF THIS SECTION, ACHIEVEMENT WITHIN 5 YEARS AFTER THE DATE ON WHICH THE FIRST VERSION OF THE PLAN IS APPROVED AND ESTABLISH THE FOLLOWING PERFORMANCE GOALS, AS RELEVANT, FOR EACH PACKAGING MATERIAL TYPE:~~

~~(I) POSTCONSUMER RECYCLED CONTENT GOALS;~~

~~(II) RECYCLABILITY AND RECYCLING RATE GOALS;~~

~~(III) REUSE GOALS;~~

~~(IV) PACKAGING REDUCTION GOALS;~~

~~(V) COMPOST ACCESS OR COMPOST RATE GOALS, IF APPLICABLE AND TECHNOLOGICALLY AND ENVIRONMENTALLY FEASIBLE;~~

~~(VI) CONTAMINATION REDUCTION RATE GOALS;~~

~~(VII) GREENHOUSE GAS REDUCTION GOALS; AND~~

~~(VIII) ANY OTHER GOAL THAT REDUCES PACKAGING MATERIAL WASTE AND IS JUSTIFIED IN THE PLAN;~~

~~(4) REQUIRE EACH PARTICIPATING PRODUCER PRODUCERS TO REDUCE ALL PACKAGING MATERIAL WASTE TO THE MAXIMUM EXTENT PRACTICABLE, AND BY NOT LESS THAN 25% FOR EACH PACKAGING MATERIAL TYPE, WITHIN 5 YEARS AFTER THE DATE ON WHICH THE FIRST VERSION OF THE PLAN IS APPROVED;~~

~~(5) DESCRIBE, IN ACCORDANCE WITH SUBSECTION (D) (E) OF THIS SECTION, THE FINANCING METHOD THAT WILL BE USED TO IMPLEMENT THE PLAN;~~

~~(6) DESCRIBE HOW THE PERFORMANCE GOALS ESTABLISHED UNDER ITEM (3) OF THIS SUBSECTION WILL BE MET OR EXCEEDED;~~

~~(7) DESCRIBE HOW STAKEHOLDER COMMENTS WERE CONSIDERED IN THE DEVELOPMENT OF THE PLAN;~~

~~(8) DESCRIBE HOW STAFFING AND ADMINISTERING THE IMPLEMENTATION OF THE PLAN WILL BE HANDLED;~~

~~(9) DESCRIBE THE STRATEGY FOR REDUCING PACKAGING MATERIALS IN THE STATE, INCLUDING HOW PRODUCERS PARTICIPATING IN A PLAN WILL WORK TOGETHER TO REDUCE PACKAGING THROUGH PRODUCT DESIGN AND PROGRAM INNOVATIONS;~~

~~(10) DESCRIBE THE ACTIONS TAKEN OR THAT WILL BE TAKEN FOR PUBLIC OUTREACH, EDUCATION, AND COMMUNICATION, TAKING INTO ACCOUNT THAT PUBLIC OUTREACH, EDUCATION, AND COMMUNICATION SHALL:~~

~~(I) PROMOTE THE RESPONSIBLE END OF LIFE MANAGEMENT OF PACKAGING MATERIALS;~~

~~(II) PROVIDE INFORMATION ON HOW TO PREVENT LITTER OF PACKAGING MATERIALS;~~

~~(III) PROVIDE RECYCLING AND ORGANICS RECYCLING INSTRUCTIONS THAT ARE, TO THE EXTENT PRACTICABLE;~~

~~1. CONSISTENT STATEWIDE, TAKING INTO ACCOUNT DIFFERENCES AMONG LOCAL LAWS AND PROCESSING CAPABILITIES;~~

~~2. EASY TO UNDERSTAND; AND~~

~~3. EASILY ACCESSIBLE; AND~~

~~(IV) PROVIDE FOR OUTREACH AND EDUCATION THAT ARE:~~

~~1. DESIGNED TO ACHIEVE PACKAGING MATERIALS MANAGEMENT GOALS AND REQUIREMENTS, INCLUDING THE PREVENTION OF CONTAMINATION OF PACKAGING MATERIALS;~~

~~2. COORDINATED ACROSS PROGRAMS TO AVOID CONFUSION FOR CONSUMERS; AND~~

~~3. DEVELOPED IN CONSULTATION WITH LOCAL GOVERNMENTS AND OTHER STAKEHOLDERS;~~

~~(11) DESCRIBE, IN ACCORDANCE WITH SUBSECTION (E) (F) OF THIS SECTION, THE AMOUNT OF FUNDING THAT WILL BE USED FOR IMPROVING REUSE, ORGANICS RECYCLING, AND RECYCLING IN THE STATE;~~

~~(12) DESCRIBE THE PROCESS BY WHICH A LOCAL GOVERNMENT MAY REQUEST REIMBURSEMENT FOR COSTS ASSOCIATED WITH TRANSPORTING, COLLECTING, AND PROCESSING PACKAGING MATERIALS THAT ARE IDENTIFIED IN THE PLAN, INCLUDING:~~

~~(I) THE PROCESS BY WHICH THE REQUEST WILL BE REVIEWED;~~

~~(II) THE PROCESS FOR APPROVING OR DENYING A REQUEST FOR REIMBURSEMENT;~~

~~(III) THE SCHEDULE FOR PROVIDING REIMBURSEMENT THAT INCLUDES REIMBURSEMENT ON AT LEAST A QUARTERLY BASIS; AND~~

~~(IV) THE PROCESS FOR PROVIDING REIMBURSEMENT FOR MULTIPLE BRANDS OF PACKAGING MATERIALS;~~

~~(13) (I) PROVIDE THE WRITTEN RECOMMENDATIONS FROM THE ADVISORY COUNCIL PROVIDED UNDER § 9-2505(G)(6) OF THIS SUBTITLE AND THE~~

~~PRODUCER RESPONSIBILITY ORGANIZATION'S WRITTEN RESPONSE TO THE ADVISORY COUNCIL; AND~~

~~(H) DESCRIBE HOW THE WRITTEN RECOMMENDATIONS FROM THE ADVISORY COUNCIL WERE CONSIDERED AND ADDRESSED IN THE DEVELOPMENT OF THE PLAN; AND~~

~~(14) INCLUDE ANY OTHER INFORMATION THAT IS REQUIRED BY THE DEPARTMENT.~~

~~(C) (D) BASED ON THE RESULTS OF THE STATEWIDE RECYCLING NEEDS ASSESSMENT CONDUCTED UNDER § 9-1702.2 OF THIS TITLE, THE DEPARTMENT, IN COORDINATION WITH A PRODUCER RESPONSIBILITY ORGANIZATION, SHALL ESTABLISH PERFORMANCE GOALS FOR EACH PACKAGING MATERIAL TYPE USING A BASELINE YEAR THAT IS INFORMED BY THE STATEWIDE RECYCLING NEEDS ASSESSMENT, INCLUDING ESTABLISHING RECYCLING RATE GOALS FOR EACH PACKAGING MATERIAL TYPE, AT 5-, 10-, AND 15-YEAR INTERVALS.~~

~~(D) (E) (1) THE FINANCING METHOD THAT WILL BE USED BY A PRODUCER RESPONSIBILITY ORGANIZATION TO IMPLEMENT A PRODUCER RESPONSIBILITY PLAN SHALL:~~

~~(I) PROVIDE THE METHOD FOR EITHER DIRECT INVESTMENTS OR REIMBURSEMENTS FOR IMPROVING INFRASTRUCTURE FOR REUSE, ORGANICS RECYCLING, AND RECYCLING IN ACCORDANCE WITH SUBSECTION (B)(11) (C)(11) OF THIS SECTION;~~

~~(II) PROVIDE SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, PROVIDE A REASONABLE ANNUAL RATE PER TON OF RECYCLED OR COMPOSTED PACKAGING MATERIALS FOR REIMBURSING LOCAL GOVERNMENTS FOR COSTS ASSOCIATED WITH:~~

~~1. UP TO 50% OF THE COST OF COLLECTING PACKAGING MATERIALS THAT ARE IDENTIFIED IN THE PLAN;~~

~~2. TRANSPORTING RECYCLABLE OR COMPOSTABLE PACKAGING MATERIALS TO A RECYCLING OR MATERIALS RECYCLING FACILITY OR AN ORGANICS RECYCLING FACILITY;~~

~~3. PROCESSING PACKAGING MATERIALS, INCLUDING REMOVING CONTAMINATION; AND~~

~~4. RECYCLING PACKAGING MATERIALS THAT ARE DIVERTED TO BE RECYCLED OR COMPOSTED IN THE STATE CONVERTING~~

~~PACKAGING MATERIALS THAT ARE DIVERTED TO BE RECYCLED OR COMPOSTED INTO COMMODITY MATERIALS;~~

~~(III) ESTABLISH SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, ESTABLISH A FEE STRUCTURE FOR PARTICIPATING PRODUCERS THAT IS SET IN A MANNER TO COVER COSTS ASSOCIATED WITH:~~

~~1. IMPLEMENTING THE PLAN, INCLUDING THE ADMINISTRATIVE COSTS OF A PRODUCER RESPONSIBILITY ORGANIZATION;~~

~~2. REIMBURSING LOCAL GOVERNMENTS FOR COSTS IN ACCORDANCE WITH ITEM (II) OF THIS PARAGRAPH;~~

~~3. THE ADMINISTRATION, REVIEW, OVERSIGHT, AND ENFORCEMENT OF THE PLAN BY THE DEPARTMENT;~~

~~4. IMPLEMENTING THE STRATEGY IN THE PLAN FOR REDUCING PACKAGING MATERIALS IN ACCORDANCE WITH SUBSECTION (B)(9) (C)(9) OF THIS SECTION; AND~~

~~5. IMPLEMENTING THE STRATEGY IN THE PLAN FOR IMPROVING REUSE, ORGANICS RECYCLING, AND RECYCLING IN THE STATE IN ACCORDANCE WITH SUBSECTION (B)(11) (C)(11) OF THIS SECTION;~~

~~(IV) 1. DESCRIBE THE INCENTIVES TO ENCOURAGE PARTICIPATING PRODUCERS TO ENGAGE IN WASTE REDUCTION AND RECYCLING ACTIVITIES; AND~~

~~2. DESCRIBE THE DISINCENTIVES TO DISCOURAGE DESIGNS OR PRACTICES THAT INCREASE THE COST OF MANAGING PACKAGING MATERIALS;~~

~~(V) BE EVALUATED BY AN INDEPENDENT FINANCIAL AUDITOR, AS DESIGNATED BY THE DEPARTMENT, TO ENSURE THAT THE COSTS OF IMPLEMENTING THE PLAN ARE COVERED; AND~~

~~(VI) MEET ANY OTHER REQUIREMENT ESTABLISHED BY THE DEPARTMENT BY REGULATION.~~

~~(2) THE REIMBURSEMENT RATE ESTABLISHED UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION SHALL BE:~~

~~(I) BASED ON:~~

- ~~1. THE POPULATION SIZE OF A LOCAL JURISDICTION;~~
- ~~2. THE DISTANCE TO THE NEAREST RECYCLING OR ORGANICS RELEVANT MATERIALS RECYCLING FACILITY OR ORGANICS RECYCLING FACILITY;~~
- ~~3. THE COMMODITY VALUE OF RECYCLED PACKAGING MATERIALS; AND~~
- ~~4. ANY SOCIOECONOMIC OR GEOGRAPHIC FACTOR, AS DETERMINED BY THE DEPARTMENT; AND~~

~~(H) DISCOUNTED EQUIVALENT TO THE ESTIMATED ANNUAL VOLUME OF PACKAGING MATERIALS SOLD IN THE STATE TO BY A PERSON THAT IS EXEMPT FROM THE REQUIREMENTS OF THIS SUBTITLE UNDER § 9-2503(B) OF THIS SUBTITLE.~~

~~(3) (I) BEFORE ESTABLISHING THE FEE STRUCTURE FOR PARTICIPATING PRODUCERS UNDER PARAGRAPH (1)(H) OF THIS SUBSECTION, THE PRODUCER RESPONSIBILITY ORGANIZATION SHALL:~~

- ~~1. PUBLISH A PROPOSED FEE ON ITS WEBSITE; AND~~
- ~~2. ALLOW 90 CALENDAR DAYS FOR PUBLIC COMMENT.~~

~~(H) THE FEE STRUCTURE ESTABLISHED UNDER PARAGRAPH (1)(H) OF THIS SUBSECTION SHALL BE VARIABLE BASED ON:~~

~~(I) 1. COSTS ASSOCIATED WITH TRANSPORTING, COLLECTING, AND PROCESSING PACKAGING MATERIALS;~~

~~(H) 2. AN ECO-MODULATION OF FEES, INCLUDING ESTABLISHING:~~

~~1. A. A HIGHER FEE FOR PACKAGING MATERIALS WITH LOW RECYCLABILITY OR RECYCLED CONTENT; AND~~

~~2. B. A DISCOUNTED FEE FOR PACKAGING MATERIALS WITH HIGH RECYCLABILITY OR RECYCLED CONTENT; AND~~

~~(H) 3. ANY OTHER FACTOR, AS DETERMINED BY THE DEPARTMENT.~~

~~(4) (i) A PRODUCER RESPONSIBILITY ORGANIZATION SHALL RETAIN ANY FEE COLLECTED UNDER THIS SUBSECTION IN ITS OWN ACCOUNT.~~

~~(ii) THE DEPARTMENT MAY REQUEST AT ANY TIME AN AUDIT OF THE FINANCIAL RECORDS OF A PRODUCER RESPONSIBILITY ORGANIZATION.~~

~~(E) (F) THE FUNDING THAT WILL BE USED FOR IMPROVING REUSE, ORGANICS RECYCLING, AND RECYCLING SHALL INCLUDE INVESTMENT IN MARKET DEVELOPMENT AND EXISTING AND FUTURE REUSE, ORGANICS RECYCLING, AND RECYCLING INFRASTRUCTURE, GIVING PRIORITY TO INVESTMENT IN EXISTING INFRASTRUCTURE, INCLUDING:~~

~~(1) INSTALLING OR UPGRADING EQUIPMENT TO IMPROVE THE SORTING OF PACKAGING MATERIALS AT EXISTING SORTING AND PROCESSING FACILITIES;~~

~~(2) MITIGATING THE IMPACTS OF PACKAGING MATERIALS ON OTHER COMMODITIES AT EXISTING SORTING AND PROCESSING FACILITIES; AND~~

~~(3) CAPITAL EXPENDITURES FOR NEW TECHNOLOGY, EQUIPMENT, AND FACILITIES, BASED ON THE RESULTS OF THE STATEWIDE RECYCLING NEEDS ASSESSMENT CONDUCTED UNDER § 9-1702.2 OF THIS TITLE.~~

~~(F) (G) THE DEPARTMENT SHALL REVIEW:~~

~~(1) THE PRODUCER RESPONSIBILITY PLAN REQUIRED UNDER SUBSECTION (A) OF THIS SECTION; AND~~

~~(2) THE WORK PRODUCT OF THE INDEPENDENT FINANCIAL AUDITOR DESIGNATED BY THE DEPARTMENT TO EVALUATE THE FINANCING COMPONENT OF THE PRODUCER RESPONSIBILITY PLAN UNDER SUBSECTION (D)(1)(V) (E)(1)(V) OF THIS SECTION.~~

~~(G) (H) (1) WITHIN 120 DAYS AFTER RECEIVING A PROPOSED PRODUCER RESPONSIBILITY PLAN, THE DEPARTMENT SHALL APPROVE, APPROVE WITH CONDITIONS, OR REJECT THE PLAN.~~

~~(2) IN MAKING A DETERMINATION UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT SHALL CONSIDER WHETHER:~~

~~(i) THE PRODUCER RESPONSIBILITY PLAN COMPLIES WITH THE REQUIREMENTS OF THIS SECTION, INCLUDING WHETHER THE FINANCING METHOD WILL COVER THE COSTS OF IMPLEMENTING THE PLAN; AND~~

~~(H) THE PRODUCER RESPONSIBILITY ORGANIZATION ENGAGED SUFFICIENTLY WITH STAKEHOLDERS, INCLUDING LOCAL GOVERNMENTS, IN DEVELOPING THE PLAN.~~

~~(3) NOT LATER THAN 60 DAYS AFTER THE DATE A PRODUCER RESPONSIBILITY PLAN IS INITIALLY APPROVED UNDER THIS SECTION, A PRODUCER RESPONSIBILITY ORGANIZATION SHALL PAY TO THE DEPARTMENT:~~

~~(i) THE DEPARTMENT'S COST OF REVIEWING THE PLAN; AND~~

~~(ii) THE DEPARTMENT'S ESTIMATED COSTS OF ADMINISTERING, OVERSEEING, AND ENFORCING THE PLAN BETWEEN THE INITIAL DATE OF APPROVAL AND THE DATE OF THE INITIAL ANNUAL REPORT REQUIRED UNDER § 9-2507 OF THIS SUBTITLE.~~

~~(H) (i) WITHIN 6 MONTHS AFTER THE DATE A PRODUCER RESPONSIBILITY PLAN IS APPROVED UNDER THIS SECTION, A PRODUCER RESPONSIBILITY ORGANIZATION SHALL IMPLEMENT THE PLAN.~~

~~(i) (j) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION AND SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, AN APPROVED PRODUCER RESPONSIBILITY PLAN SHALL EXPIRE AFTER 5 YEARS.~~

~~(2) A PRODUCER RESPONSIBILITY PLAN MAY CONTINUE AFTER 5 YEARS IF IT IS RENEGOTIATED, RENEWED, OR AMENDED AND APPROVED BY THE DEPARTMENT IN ACCORDANCE WITH THIS SUBTITLE.~~

~~(3) THE DEPARTMENT MAY RESCIND APPROVAL OF A PRODUCER RESPONSIBILITY PLAN AT ANY TIME FOR GOOD CAUSE.~~

~~(4) IF THE DEPARTMENT RESCINDS AN APPROVAL OF A PRODUCER RESPONSIBILITY PLAN UNDER PARAGRAPH (3) OF THIS SUBSECTION, THE PRODUCER, OR IF APPLICABLE, THE PRODUCER RESPONSIBILITY ORGANIZATION MAY AMEND THE PLAN AND SUBMIT IT TO THE DEPARTMENT FOR APPROVAL IN ACCORDANCE WITH THIS SUBTITLE.~~

~~(5) IF, BASED ON THE ANNUAL REPORT SUBMITTED UNDER § 9-2507 OF THIS SUBTITLE, THE PERFORMANCE GOALS ESTABLISHED UNDER SUBSECTION (B)(3) (C)(3) OF THIS SECTION HAVE NOT BEEN ACHIEVED, THE DEPARTMENT MAY:~~

~~(i) REQUIRE THAT A PRODUCER RESPONSIBILITY ORGANIZATION AMEND THE PRODUCER RESPONSIBILITY PLAN; AND~~

~~(H) IMPOSE AN ADMINISTRATIVE PENALTY ON A PRODUCER RESPONSIBILITY ORGANIZATION IN ACCORDANCE WITH § 9-2510(C) OF THIS SUBTITLE.~~

~~(6) IF THE DEPARTMENT REQUIRES A PRODUCER RESPONSIBILITY ORGANIZATION TO AMEND THE PRODUCER RESPONSIBILITY PLAN UNDER PARAGRAPH (5) OF THIS SUBSECTION, THE PRODUCER RESPONSIBILITY ORGANIZATION MUST COVER THE COST OF THE DEPARTMENT'S REVIEW AND SUPPLEMENTAL WORK ON THE PLAN.~~

~~9-2505.~~

9-2502.

ON OR BEFORE OCTOBER 1, 2023, THE DEPARTMENT SHALL APPROVE A SINGLE PRODUCER RESPONSIBILITY ORGANIZATION TO REPRESENT THE INTERESTS OF PRODUCERS UNDER THIS SUBTITLE.

9-2503.

(A) THERE IS A PRODUCER RESPONSIBILITY ~~PLAN~~ ADVISORY COUNCIL.

(B) THE PURPOSE OF THE ADVISORY COUNCIL IS TO PROVIDE ADVICE ~~TO THE DEPARTMENT AND PRODUCER RESPONSIBILITY ORGANIZATIONS FOR DRAFTING, AMENDING, AND IMPLEMENTING PRODUCER RESPONSIBILITY PLANS~~ AND MAKE RECOMMENDATIONS REGARDING ESTABLISHING AND IMPLEMENTING A PRODUCER RESPONSIBILITY PROGRAM IN THE STATE FOR PACKAGING MATERIALS.

(C) (1) THE ADVISORY COUNCIL SHALL CONSIST OF UP TO 21 MEMBERS, APPOINTED BY THE SECRETARY ~~SECRETARY~~, REPRESENTING A BROAD RANGE OF INTERESTED STAKEHOLDERS ~~APPOINTED BY THE SECRETARY~~, INCLUDING:

(I) REPRESENTATIVES FROM THE FOLLOWING INDUSTRIES OR ENTITIES IN THE STATE:

1. LOCAL GOVERNMENT AGENCIES RESPONSIBLE FOR RECYCLING PROGRAMS;

2. RECYCLABLES AND COMPOSTABLE MATERIALS COLLECTORS FROM BOTH THE PUBLIC AND PRIVATE SECTORS;

3. RECYCLING PROCESSORS FROM BOTH THE PUBLIC AND PRIVATE SECTORS;

4. ORGANICS RECYCLING PROCESSORS;
5. ~~THE~~ PRODUCERS FROM THE CONSUMER GOODS SECTOR;
6. RETAIL AND SMALL BUSINESSES; AND
7. MATERIAL-ORIENTED TRADE GROUPS;

(II) A REPRESENTATIVE FROM ~~EACH~~ THE PRODUCER RESPONSIBILITY ORGANIZATION APPROVED BY THE DEPARTMENT UNDER § 9-2502 OF THIS SUBTITLE;

(III) REPRESENTATIVES OF AT LEAST TWO NONPROFIT ORGANIZATIONS IN THE STATE WITH MISSIONS RELATED TO REDUCING WASTE;

(IV) AT LEAST ONE REPRESENTATIVE OF AN ENVIRONMENTAL ADVOCACY ORGANIZATION;

(V) AT LEAST ONE REPRESENTATIVE OF AN ~~ENVIRONMENTAL JUSTICE~~ ADVOCACY ORGANIZATION THAT ADVOCATES ON BEHALF OF OVERBURDENED OR UNDERSERVED COMMUNITIES, AS DEFINED IN § 1-701 OF THIS ARTICLE; AND

(VI) AT LEAST TWO MEMBERS OF THE PUBLIC WHO RESIDE IN THE STATE.

(2) IN APPOINTING MEMBERS TO THE ADVISORY COUNCIL, THE SECRETARY SHALL, TO THE EXTENT PRACTICABLE, ENSURE THAT THE MEMBERSHIP OF THE ADVISORY COUNCIL REPRESENTS:

- (I) ALL GEOGRAPHIC REGIONS OF THE STATE;
- (II) LARGE AND SMALL COUNTIES AND MUNICIPALITIES; AND
- (III) THE VARIABILITY IN HOW WASTE AND RECYCLABLE AND COMPOSTABLE MATERIALS ARE COLLECTED AND PROCESSED IN THE STATE.

~~(3) A REPRESENTATIVE FROM A PRODUCER OR A PRODUCER RESPONSIBILITY ORGANIZATION MAY NOT SERVE AS A VOTING MEMBER OR AS COCHAIR OF THE ADVISORY COUNCIL.~~

~~(4) (i) THE TERM OF A MEMBER IS 4 YEARS AND A MEMBER MAY BE REAPPOINTED.~~

~~(ii) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE ADVISORY COUNCIL ON OCTOBER 1, 2023.~~

~~(iii) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.~~

~~(iv) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.~~

(D) FROM AMONG THE ADVISORY COUNCIL MEMBERS, THE SECRETARY SHALL DESIGNATE TWO REPRESENTATIVES TO SERVE AS COCHAIRS.

(E) THE DEPARTMENT SHALL PROVIDE STAFF FOR THE ADVISORY COUNCIL.

(F) A MEMBER OF THE ADVISORY COUNCIL:

(1) MAY NOT RECEIVE COMPENSATION AS A MEMBER OF THE ADVISORY COUNCIL; BUT

(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

~~(F)~~ (G) THE ADVISORY COUNCIL SHALL MEET AT ~~LEAST QUARTERLY~~ THE REQUEST OF THE SECRETARY.

~~(G)~~ (H) (1) THE ADVISORY COUNCIL SHALL: EVALUATE AND MAKE RECOMMENDATIONS, INCLUDING LEGISLATIVE RECOMMENDATIONS, ON HOW TO EFFECTIVELY ESTABLISH AND IMPLEMENT A PRODUCER RESPONSIBILITY PROGRAM IN THE STATE FOR PACKAGING MATERIALS.

(2) IN MAKING RECOMMENDATIONS UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE ADVISORY COUNCIL SHALL INCLUDE RECOMMENDATIONS REGARDING THE RESPONSIBILITIES OF PRODUCERS UNDER A PRODUCER RESPONSIBILITY PROGRAM.

(I) ON OR BEFORE DECEMBER 1, 2024, THE ADVISORY COUNCIL SHALL REPORT ITS FINDINGS AND RECOMMENDATIONS TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE SENATE

COMMITTEE ON EDUCATION, ENERGY, AND THE ENVIRONMENT AND THE HOUSE ENVIRONMENT AND TRANSPORTATION COMMITTEE.

~~(1) ON REQUEST BY A PRODUCER OR PRODUCER RESPONSIBILITY ORGANIZATION, PROVIDE ADVICE REGARDING THE DRAFTING OR AMENDING OF A PRODUCER RESPONSIBILITY PLAN REQUIRED UNDER § 9-2504 OF THIS SUBTITLE;~~

~~(2) RECEIVE AND REVIEW THE PRODUCER RESPONSIBILITY PLANS SUBMITTED IN ACCORDANCE WITH § 9-2504 OF THIS SUBTITLE;~~

~~(3) RECEIVE AND REVIEW ANNUAL REPORTS SUBMITTED IN ACCORDANCE WITH § 9-2507 OF THIS SUBTITLE;~~

~~(4) MAKE RECOMMENDATIONS TO THE DEPARTMENT REGARDING PRODUCER RESPONSIBILITY PLAN APPROVAL;~~

~~(5) MAKE RECOMMENDATIONS TO THE DEPARTMENT AND PRODUCER RESPONSIBILITY ORGANIZATIONS REGARDING PRODUCER RESPONSIBILITY PLAN IMPLEMENTATION; AND~~

~~(6) PROVIDE WRITTEN RECOMMENDATIONS REGARDING THE PRODUCER RESPONSIBILITY PLAN, INCLUDING ANY UPDATE OR REVISION TO AN APPROVED PLAN, TO A PRODUCER RESPONSIBILITY ORGANIZATION BEFORE THE PRODUCER RESPONSIBILITY ORGANIZATION SUBMITS THE PLAN TO THE DEPARTMENT.~~

~~9-2506.~~

~~(A) IN ACCORDANCE WITH THE REQUIREMENTS OF A PRODUCER RESPONSIBILITY ORGANIZATION, AS ESTABLISHED IN AN APPROVED PRODUCER RESPONSIBILITY PLAN ON FILE WITH THE DEPARTMENT, AND ANY OTHER REQUIREMENT ADOPTED BY THE DEPARTMENT, A LOCAL GOVERNMENT MAY REQUEST REIMBURSEMENT FROM A PRODUCER RESPONSIBILITY ORGANIZATION FOR COSTS ASSOCIATED WITH COLLECTING, TRANSPORTING, AND PROCESSING PACKAGING MATERIALS THAT ARE IDENTIFIED UNDER THE PLAN, INCLUDING COSTS ASSOCIATED WITH RECYCLING SERVICES FOR PUBLIC PLACES AND PUBLIC HOUSING.~~

~~(B) (1) IF MULTIPLE PRODUCER RESPONSIBILITY ORGANIZATIONS REGISTER APPROVED PRODUCER RESPONSIBILITY PLANS WITH THE DEPARTMENT IN ACCORDANCE WITH THIS SUBTITLE, THE PRODUCER RESPONSIBILITY ORGANIZATIONS SHALL COORDINATE REIMBURSEMENT REQUESTED UNDER THIS SECTION.~~

~~(2) MULTIPLE PRODUCER RESPONSIBILITY ORGANIZATIONS MAY ESTABLISH A THIRD PARTY ENTITY TO COORDINATE REIMBURSEMENT IN ACCORDANCE WITH THIS SUBSECTION.~~

~~(C) THIS SECTION DOES NOT AUTHORIZE A LOCAL GOVERNMENT TO REQUEST REIMBURSEMENT FROM A PRODUCER RESPONSIBILITY ORGANIZATION FOR COSTS ASSOCIATED WITH COMPOSTING MATERIALS THAT ARE NOT PACKAGING MATERIALS, INCLUDING FOOD WASTE AND OTHER ORGANIC MATERIALS.~~

~~9-2507.~~

~~(A) BEGINNING MARCH 1, 2027, EACH PRODUCER RESPONSIBILITY ORGANIZATION THAT HAS AN APPROVED PRODUCER RESPONSIBILITY PLAN ON FILE WITH THE DEPARTMENT SHALL REPORT ANNUALLY TO THE DEPARTMENT ON THE PROGRESS TOWARD MEETING PLAN REQUIREMENTS AND GOALS FOR THE IMMEDIATELY PRECEDING CALENDAR YEAR.~~

~~(B) THE REPORT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE:~~

~~(1) A DETAILED DESCRIPTION OF THE REIMBURSEMENT METHODS USED FOR COLLECTING, TRANSPORTING, AND PROCESSING PACKAGING MATERIALS;~~

~~(2) (I) THE STATUS ON ACHIEVING THE PERFORMANCE GOALS ESTABLISHED UNDER § 9-2504(B)(3) § 9-2504(C)(3) OF THIS SUBTITLE; AND~~

~~(II) IF THE GOALS HAVE NOT BEEN ACHIEVED, A DESCRIPTION OF THE ACTIONS PROPOSED TO ACHIEVE THE GOALS;~~

~~(3) THE AMOUNT OF EACH PACKAGING MATERIAL TYPE COLLECTED IN THE STATE, INCLUDING THE METHOD OF DISPOSITION OF EACH PACKAGING MATERIAL TYPE;~~

~~(4) (I) THE NUMBER OF BEVERAGE CONTAINERS SOLD IN THE STATE AND THE NUMBER COLLECTED, BY MATERIAL TYPE;~~

~~(II) THE OVERALL REDEMPTION RATE AND EFFECTIVE RATE OF RECYCLING OF BEVERAGE CONTAINERS BY MATERIAL TYPE, AFTER SUBTRACTING CONTAMINATION RATES, AND BY NUMBER OF UNITS AND WEIGHT; AND~~

~~(III) 1. A DESCRIPTION OF THE LOCATION OF COLLECTION FACILITIES OR POINTS AND SORTING AND PROCESSING FACILITIES FOR BEVERAGE CONTAINERS;~~

~~2. A DESCRIPTION OF ANY IMPROVEMENTS MADE IN THE REPORTING YEAR TO INCREASE THE EASE AND CONVENIENCE FOR CONSUMERS TO RETURN BEVERAGE CONTAINERS;~~

~~3. A DESCRIPTION OF UNDERSERVED AREAS AND ACTIONS THAT WILL BE TAKEN BY THE PRODUCER RESPONSIBILITY ORGANIZATION TO IMPROVE THE AVAILABILITY OF COLLECTION FACILITIES OR POINTS IN UNDERSERVED AREAS; AND~~

~~4. ANY OTHER INFORMATION ON BEVERAGE CONTAINERS REQUIRED BY THE DEPARTMENT;~~

~~(5) (4) THE TOTAL COST OF IMPLEMENTING THE PLAN, AS DETERMINED BY AN INDEPENDENT FINANCIAL AUDITOR INCLUDING:~~

~~(I) A COPY OF THE WORK PRODUCT OF THE INDEPENDENT FINANCIAL AUDITOR; AND~~

~~(II) FINANCIAL STATEMENTS DETAILING ALL PAYMENTS RECEIVED AND ISSUED BY THE PRODUCERS COVERED UNDER THE APPROVED PLAN;~~

~~(6) (5) SAMPLES OF ALL EDUCATIONAL MATERIALS PROVIDED TO CONSUMERS OR OTHER ENTITIES;~~

~~(7) (6) A DETAILED DESCRIPTION OF THE ACTIONS TAKEN AND AN EVALUATION OF THE METHODS USED TO DISSEMINATE EDUCATIONAL MATERIALS, INCLUDING RECOMMENDATIONS, IF ANY, FOR HOW THE EDUCATIONAL COMPONENT OF THE PLAN CAN BE IMPROVED;~~

~~(8) (7) A DETAILED DESCRIPTION OF INVESTMENTS MADE IN MARKET DEVELOPMENT AND FOR IMPROVING REUSE, ORGANICS RECYCLING, AND RECYCLING INFRASTRUCTURE;~~

~~(9) (8) PROOF OF A THIRD PARTY AUDIT OF:~~

~~(I) THE REDUCTION IN PACKAGING REPORTED;~~

~~(II) THE DATA USED TO DETERMINE THE STATUS OF ACHIEVING PERFORMANCE GOALS;~~

~~(III) THE AMOUNT OF EACH PACKAGING MATERIAL TYPE COLLECTED IN THE STATE; AND~~

~~(IV) THE NUMBER OF BEVERAGE CONTAINERS SOLD, COLLECTED, AND REDEEMED IN THE STATE; AND~~

~~(V) THE OVERALL REDEMPTION RATE AND RECYCLING RATE OF BEVERAGE CONTAINERS IN THE STATE; AND~~

~~(10) (9) ANY OTHER INFORMATION AS REQUIRED BY THE DEPARTMENT.~~

~~(C) WHEN PROVIDING THE DEPARTMENT WITH THE ANNUAL REPORT REQUIRED UNDER THIS SECTION, A PRODUCER RESPONSIBILITY ORGANIZATION SHALL PAY TO THE DEPARTMENT THE DEPARTMENT'S ESTIMATED COSTS OF ADMINISTERING, OVERSEEING, AND ENFORCING THE PLAN FOR THE 1 YEAR IMMEDIATELY FOLLOWING THE ANNUAL REPORT.~~

~~(D) FINANCIAL, PRODUCTION, OR SALES DATA REPORTED TO THE DEPARTMENT BY A PRODUCER RESPONSIBILITY ORGANIZATION SHALL BE KEPT CONFIDENTIAL BY THE DEPARTMENT AND MAY NOT BE SUBJECT TO PUBLIC INSPECTION.~~

~~(E) SUBJECT TO SUBSECTION (D) OF THIS SECTION, THE REPORT SHALL BE POSTED ON THE WEBSITE OF THE DEPARTMENT AND THE PRODUCER RESPONSIBILITY ORGANIZATION.~~

~~9-2508.~~

~~ANY PERSON PARTICIPATING IN A PRODUCER RESPONSIBILITY PLAN IN COMPLIANCE WITH THIS SUBTITLE IS IMMUNE FROM LIABILITY UNDER STATE LAW RELATING TO ANTITRUST AND RESTRAINT OF TRADE FOR ANY COOPERATED ACTIVITIES ARISING OUT OF THE RECYCLING, REUSE, AND DISPOSAL OF PACKAGING MATERIALS.~~

~~9-2509.~~

~~THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.~~

~~9-2510.~~

~~(A) EXCEPT AS OTHERWISE PROVIDED UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION, THE PROVISIONS OF §§ 9-334 THROUGH 9-344 OF THIS TITLE APPLY TO ENFORCE VIOLATIONS OF:~~

- ~~(1) THIS SUBTITLE;~~
- ~~(2) ANY REGULATION ADOPTED UNDER THIS SUBTITLE; OR~~
- ~~(3) ANY ORDER ISSUED UNDER THIS SUBTITLE.~~

~~(B) (1) A PRODUCER OR PRODUCER RESPONSIBILITY ORGANIZATION THAT VIOLATES THIS SUBTITLE IS SUBJECT TO:~~

~~(I) FOR A FIRST VIOLATION, A CIVIL AN ADMINISTRATIVE PENALTY OF \$5,000;~~

~~(II) FOR A SECOND VIOLATION, A CIVIL AN ADMINISTRATIVE PENALTY OF \$10,000; AND~~

~~(III) FOR A THIRD AND SUBSEQUENT VIOLATION, A CIVIL PENALTY OF \$20,000.~~

~~(2) A PENALTY MAY NOT BE IMPOSED ON A PRODUCER UNDER THIS SECTION UNLESS:~~

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

~~(II) THE VIOLATION IS NOT CORRECTED WITHIN 60 DAYS OF RECEIPT OF THE WRITTEN NOTICE.~~

~~(3) AFTER THE 60-DAY PERIOD SPECIFIED UNDER PARAGRAPH (2) OF THIS SUBSECTION, EACH DAY THAT A VIOLATION CONTINUES IS A SEPARATE VIOLATION.~~

~~(C) IF, BASED ON THE ANNUAL REPORT SUBMITTED UNDER § 9-2507 OF THIS SUBTITLE, THE PERFORMANCE GOALS ESTABLISHED UNDER § 9-2504(B)(3) § 9-2504(C)(3) OF THIS SUBTITLE HAVE NOT BEEN ACHIEVED, THE DEPARTMENT MAY IMPOSE AN ADMINISTRATIVE PENALTY, NOT TO EXCEED \$5,000 \$250,000, ON THE PRODUCER RESPONSIBILITY ORGANIZATION.~~

~~(D) ANY PENALTY COLLECTED BY THE DEPARTMENT UNDER THIS SECTION SHALL BE PAID INTO THE STATE RECYCLING TRUST FUND ESTABLISHED UNDER § 9-1707 OF THIS TITLE.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 1, 2024, each local government in the State shall file a feasibility plan with the Department of the Environment that prioritizes the sale of recycled packaging materials back to manufacturers that have a manufacturing facility in the State.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That the terms of the initial members of the producer responsibility plan advisory council shall expire as follows:~~

- ~~(1) five members in 2024;~~
- ~~(2) five members in 2025;~~
- ~~(3) five members in 2026; and~~
- ~~(4) the remaining members in 2027.~~

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) In this section, “advisory council” and “producer” have the meanings stated in § 9-2501 of the Environment Article, as enacted under Section 1 of this Act.

(b) (1) The Office of Recycling in the Department of the Environment shall procure a statewide recycling needs assessment in accordance with this section.

(2) The Office shall hire an independent consultant to conduct a statewide recycling needs assessment that includes:

- (i) an analysis of the State’s current solid waste streams, including:
 - 1. solid waste generated in the State by local jurisdiction, type, and material;
 - 2. disposal methods by material type and amount; and
 - 3. associated costs and revenues for solid waste disposal programs;
- (ii) an analysis of the State’s current recycling streams, including:
 - 1. recyclable materials processed by local jurisdiction, type, and amount;
 - 2. processing methods by material type and amount;

3. associated costs and revenues for recycling programs, collection, and tipping fees; and

4. an estimate of the amount of recyclable materials that are not currently being recycled;

(iii) an evaluation of the current infrastructure and capacity related to, need for, and associated costs of:

1. recycling access and availability;

2. collecting and hauling recyclable or compostable materials in the State;

3. processing recyclable or compostable materials in the State;

4. taking advantage of favorable market conditions or other opportunities for increasing recycling or organics recycling in the State;

5. in coordination with local governments, consumer education regarding recycling, organics recycling, and contamination reduction;

6. reuse infrastructure; and

7. organics recycling infrastructure;

(iv) an evaluation of commingled recycling processing facility worker conditions, wages, and benefits;

(v) an evaluation of opportunities in the recycling system for women and minority individuals;

(vi) an evaluation of local government requirements related to multifamily and commercial recycling services and their implementation;

(vii) the sufficiency of recycling education programs relative to desired equity outcomes;

(viii) an evaluation of the economic opportunities in the State's recycling system, including:

1. State and local revenue that may be considered lost because recyclable materials are not being recycled;

2. current jobs associated with the solid waste and recycling industries;

3. opportunities to increase employment in the recycling industry by material type;

4. business opportunities associated with recycling;

5. barriers to increasing the use of recyclable materials as feedstock for principal processors and manufacturers and means of eliminating those barriers; and

6. recommendations for incentives to stimulate job growth and business opportunities in the State's recycling industry;

(ix) recommendations for improving equity and equitable outcomes for underserved populations in the State's recycling system;

(x) an analysis of the costs and benefits of implementing an extended producer responsibility program, including to:

1. local governments;

2. waste producers;

3. residents; and

4. waste management companies;

(xi) an analysis of the potential environmental impact of an extended producer responsibility program, including through:

1. increased recycling;

2. resource recovery;

3. waste reduction; and

4. reduced environmental damage; and

(xii) recommendations on the best practices to follow from successful extended producer responsibility programs in other states and countries.

(c) On or before July 30, 2024, the Office shall report on the results of the assessment conducted under this section to the Governor and, in accordance with § 2-1257 of the State Government Article, the General Assembly.

(d) In conducting the assessment required under this section, the independent consultant shall consult with the advisory council, appropriate local governmental entities, and regional solid waste organizations and producers in the State.

SECTION ~~2~~ ~~4~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2023.

Approved by the Governor, May 8, 2023.