

SENATE BILL 222

M3
HB 307/22 – ENT & ECM

3lr0665
CF HB 284

By: Senators Augustine, Hester, Elfreth, ~~and Hettleman~~ Hettleman, Brooks, Kagan, Lewis Young, and Watson

Introduced and read first time: January 23, 2023

Assigned to: Education, Energy, and the Environment

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 8, 2023

CHAPTER _____

1 AN ACT concerning

2 **Environment – Reducing Packaging Materials – Producer Responsibility**

3 FOR the purpose of requiring certain producers of packaging materials to individually or
4 as part of a producer responsibility organization submit a certain packaging
5 materials producer responsibility plan to the Department of the Environment for
6 review and approval on or before a certain date and in accordance with certain
7 requirements; prohibiting, on or after a certain date, a producer of certain packaging
8 materials from selling, offering for sale, distributing, or importing certain packaging
9 materials unless the producer, individually or as part of a producer responsibility
10 organization, has an approved producer responsibility plan on file with the
11 Department; requiring a producer responsibility organization to pay certain costs to
12 the Department; requiring a producer responsibility organization to implement a
13 producer responsibility plan within a certain amount of time after the Department
14 approves the producer responsibility plan; establishing a producer responsibility
15 plan advisory council; authorizing a local government to request reimbursement
16 from a certain producer that has an approved producer responsibility plan on file
17 with the Department for certain costs in a certain manner; requiring the Office of
18 Recycling in the Department to hire an independent contractor to conduct certain
19 statewide recycling needs assessments in a certain manner and to submit certain
20 reports on the results of the assessments to the Governor and the General Assembly
21 on or before certain dates; and generally relating to producer responsibility for
22 packaging materials.

23 BY repealing and reenacting, without amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Article – Environment
 2 Section 9–1701(a) and (o)
 3 Annotated Code of Maryland
 4 (2014 Replacement Volume and 2022 Supplement)

5 BY repealing and reenacting, with amendments,
 6 Article – Environment
 7 Section ~~9–1702~~ 9–1701(n), 9–1702, and 9–1707(f)
 8 Annotated Code of Maryland
 9 (2014 Replacement Volume and 2022 Supplement)

10 BY adding to
 11 Article – Environment
 12 Section 9–1702.2; and 9–2501 through 9–2510 to be under the new subtitle “Subtitle
 13 25. Producer Responsibility for Packaging Materials”
 14 Annotated Code of Maryland
 15 (2014 Replacement Volume and 2022 Supplement)

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

18 **Article – Environment**

19 9–1701.

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

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

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

25 (o) “Organics recycling facility” means a facility where organics recycling takes
 26 place.

27 9–1702.

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

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

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

1 (d) The Office shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (1) Tire manufacturers;

20 (2) Tire dealers; and

21 (3) Tire recyclers.

22 **9-1702.2.**

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

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

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

1 **(I) SOLID WASTE GENERATED IN THE STATE BY LOCAL**
2 **JURISDICTION, TYPE, AND MATERIAL;**

3 **(II) DISPOSAL METHODS BY MATERIAL TYPE AND AMOUNT; AND**

4 **(III) ASSOCIATED COSTS AND REVENUES FOR SOLID WASTE**
5 **DISPOSAL PROGRAMS;**

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

8 **(I) RECYCLABLE MATERIALS PROCESSED BY LOCAL**
9 **JURISDICTION, TYPE, AND AMOUNT;**

10 **(II) PROCESSING METHODS BY MATERIAL TYPE AND AMOUNT;**

11 **(III) ASSOCIATED COSTS AND REVENUES FOR RECYCLING**
12 **PROGRAMS, COLLECTION, AND TIPPING FEES; AND**

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

15 ~~(1)~~ **(3) AN EVALUATION OF THE CURRENT INFRASTRUCTURE AND**
16 **CAPACITY RELATED TO, NEED FOR, AND ASSOCIATED COSTS OF:**

17 **(I) RECYCLING ACCESS AND AVAILABILITY;**

18 **(II) COLLECTING AND HAULING RECYCLABLE OR**
19 **COMPOSTABLE MATERIALS IN THE STATE;**

20 **(III) PROCESSING RECYCLABLE OR COMPOSTABLE MATERIALS**
21 **IN THE STATE;**

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

25 **(V) IN COORDINATION WITH LOCAL GOVERNMENTS, CONSUMER**
26 **EDUCATION REGARDING RECYCLING, ORGANICS RECYCLING, AND CONTAMINATION**
27 **REDUCTION;**

28 **(VI) REUSE INFRASTRUCTURE; AND**

29 **(VII) ORGANICS RECYCLING INFRASTRUCTURE;**

1 ~~(2)~~ (4) AN EVALUATION OF COMMINGLED RECYCLING PROCESSING
2 FACILITY WORKER CONDITIONS, WAGES, AND BENEFITS;

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

5 ~~(4)~~ (6) AN EVALUATION OF LOCAL GOVERNMENT REQUIREMENTS
6 RELATED TO MULTIFAMILY AND COMMERCIAL RECYCLING SERVICES AND THEIR
7 IMPLEMENTATION;

8 ~~(5)~~ (7) THE SUFFICIENCY OF RECYCLING EDUCATION PROGRAMS
9 RELATIVE TO DESIRED EQUITY OUTCOMES;

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

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

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

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

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

20 (IV) BUSINESS OPPORTUNITIES ASSOCIATED WITH RECYCLING;

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

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

26 ~~(7)~~ (9) RECOMMENDATIONS FOR IMPROVING EQUITY AND
27 EQUITABLE OUTCOMES FOR UNDERSERVED POPULATIONS IN THE STATE'S
28 RECYCLING SYSTEM, INCLUDING RECOMMENDATIONS FOR NEW RESPONSIBILITIES
29 OF PRODUCER RESPONSIBILITY ORGANIZATIONS AND RECOMMENDATIONS FOR
30 FUNDING THE NEW ~~RESPONSIBILITIES.~~ RESPONSIBILITIES;

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

3 **(I) LOCAL GOVERNMENTS;**

4 **(II) WASTE PRODUCERS;**

5 **(III) RESIDENTS; AND**

6 **(IV) WASTE MANAGEMENT COMPANIES;**

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

9 **(I) INCREASED RECYCLING;**

10 **(II) RESOURCE RECOVERY;**

11 **(III) WASTE REDUCTION; AND**

12 **(IV) REDUCED ENVIRONMENTAL DAMAGE;**

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

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

21 **(I) COLLECTING PACKAGING MATERIALS THAT ARE**
22 **IDENTIFIED IN PLANS;**

23 **(II) TRANSPORTING RECYCLABLE OR COMPOSTABLE**
24 **PACKAGING MATERIALS IDENTIFIED IN THE PLANS; AND**

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

27 **(C) ON OR BEFORE APRIL 1, 2025, AND EACH APRIL 1 EVERY 10 YEARS**
28 **THEREAFTER OR AS RECOMMENDED BY THE ADVISORY COUNCIL, THE OFFICE**
29 **SHALL REPORT ON THE RESULTS OF THE MOST RECENT ASSESSMENT CONDUCTED**

1 UNDER THIS SECTION TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1257 OF
2 THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

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

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

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

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

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

17 9-1707.

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

19 (2) The Fund shall consist of:

20 (i) The newsprint recycling incentive fee;

21 (ii) The telephone directory recycling incentive fee collected under §
22 9-1709 of this subtitle;

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

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

28 [(iv)] (V) All fines and penalties collected under this subtitle AND §
29 9-2510 OF THIS TITLE;

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

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

3 (3) The Secretary shall administer the Fund.

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

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

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

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

12 (ii) To provide grants to counties that have addressed methods for
13 the separate collection and recycling of covered electronic devices in accordance with §
14 9-1703(c)(1) of this subtitle;

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

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

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

23 [(iv)] (VI) To carry out the purposes of the land management
24 administration.

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

26 (II) THE SEPARATE ACCOUNT SHALL CONSIST OF:

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

30 2. ALL FINES AND PENALTIES COLLECTED UNDER §
31 9-2510 OF THIS TITLE.

1 (III) THE SEPARATE ACCOUNT SHALL BE USED ONLY FOR THE
 2 COSTS OF THE STATEWIDE RECYCLING NEEDS ASSESSMENT CONDUCTED UNDER §
 3 9-1702.2 OF THIS SUBTITLE AND PRODUCER RESPONSIBILITY PLAN REVIEW,
 4 OVERSIGHT, AND ENFORCEMENT UNDER SUBTITLE 25 OF THIS TITLE.

5 [(7)] (8) (i) The Treasurer shall invest the money in the Fund in the
 6 same manner as other State money may be invested.

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

9 **SUBTITLE 25. PRODUCER RESPONSIBILITY FOR PACKAGING MATERIALS.**

10 **9-2501.**

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

13 (B) "ADVISORY COUNCIL" MEANS THE PRODUCER RESPONSIBILITY PLAN
 14 ADVISORY COUNCIL ESTABLISHED UNDER § 9-2505 OF THIS SUBTITLE.

15 ~~(C) "BEVERAGE CONTAINER" MEANS A PREPACKAGED BEVERAGE~~
 16 ~~CONTAINER.~~

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

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

21 ~~(D)~~ (C) "LOCAL GOVERNMENT" MEANS:

22 (1) A COUNTY; OR

23 (2) A MUNICIPALITY.

24 (D) "MATERIALS RECYCLING FACILITY" MEANS A FACILITY THAT RECEIVES
 25 RECYCLABLE MATERIALS FOR MECHANICAL OR MANUAL SORTING INTO
 26 SPECIFICATION-GRADE COMMODITIES FOR SALE TO A BROKER OR END MARKET.

27 (E) "ORGANICS RECYCLING" AND "ORGANICS RECYCLING FACILITY" HAVE
 28 THE MEANINGS STATED IN § 9-1701 OF THIS TITLE.

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

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

9 **(2) “PACKAGING MATERIALS” INCLUDES:**

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

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

14 1. **CARRY-OUT BAGS;**

15 2. **BULK GOODS BAGS; AND**

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

18 **(III) BEVERAGE CONTAINERS.**

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

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

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

25 ~~(II)~~ **2. A FEDERALLY REGULATED DRUG, MEDICAL DEVICE,**
26 **BIOLOGIC, ~~OR~~ DIAGNOSTIC, OR DIETARY SUPPLEMENT INCLUDING ITEMS INTENDED**
27 **FOR ANIMALS; OR**

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

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

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

5 **(2) “PRODUCER” DOES NOT INCLUDE:**

6 **(I) A LOCAL GOVERNMENT;**

7 **(II) A NONPROFIT CHARITABLE ORGANIZATION; OR**

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

11 ~~(G)~~ **(I)** **“PRODUCER RESPONSIBILITY ORGANIZATION” MEANS:**

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

15 **(2) A NONPROFIT ORGANIZATION THAT IS:**

16 **(I) EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE**
 17 **INTERNAL REVENUE CODE; AND**

18 **(II) CREATED BY A GROUP OF PRODUCERS TO IMPLEMENT A**
 19 **PRODUCER RESPONSIBILITY PLAN IN ACCORDANCE WITH § 9-2504(A) OF THIS**
 20 **SUBTITLE.**

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

25 **9-2502.**

26 **IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THIS SUBTITLE PROVIDE**
 27 **A FRAMEWORK FOR:**

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

1 **(I) THE IMPROVEMENT OF REUSE, ORGANICS RECYCLING, AND**
2 **RECYCLING;**

3 **(II) THE IMPROVEMENT OF RECYCLING MARKETS;**

4 **(III) THE REDUCTION OF WASTE; AND**

5 **(IV) AN INCREASE IN RECYCLING RATES; AND**

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

8 **9-2503.**

9 **(A) (1) (I) THIS PARAGRAPH APPLIES TO ITEMS SOLD IN PACKAGING**
10 **MATERIALS AT A PHYSICAL RETAIL LOCATION IN THE STATE.**

11 **(II) IF THE ITEM IS SOLD UNDER THE MANUFACTURER'S OWN**
12 **BRAND OR IS SOLD IN PACKAGING MATERIALS THAT LACK IDENTIFICATION OF A**
13 **BRAND, THE PRODUCER OF THE PACKAGING MATERIALS IS THE PERSON THAT**
14 **MANUFACTURES THE ITEM.**

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

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

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

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

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

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

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

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

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

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

16 **A. IS HEADQUARTERED IN THE STATE; AND**

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

20 **2. IS NOT A PRODUCER OF FOOD SERVICEWARE;**

21 **(IV) OWNS OR OPERATES A SINGLE RETAIL SALES**
22 **ESTABLISHMENT THAT:**

23 **1. HAS NO ONLINE SALES; AND**

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

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

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

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

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

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

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

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

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

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

22 9-2504.

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

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

29 (II) THE REGISTRATION FORM SHALL INCLUDE:

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

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

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

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

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

14 (IV) AT THE TIME OF THE INITIAL SUBMISSION OF THE
15 REGISTRATION FORM BY A THE PRODUCER RESPONSIBILITY ORGANIZATION, THE
16 ORGANIZATION SHALL HAVE 60 DAYS TO PAY TO THE DEPARTMENT THE ESTIMATED
17 COST OF CONDUCTING THE INITIAL STATEWIDE RECYCLING NEEDS ASSESSMENT
18 REQUIRED UNDER § 9-1702.2 OF THIS TITLE.

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

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

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

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

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

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

1 **1. INCREASE RECYCLING RATES; OR**

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

4 **(III) IF THE DEPARTMENT APPROVES THE DESIGNATION OF AN**
5 **ADDITIONAL PRODUCER RESPONSIBILITY ORGANIZATION UNDER THIS**
6 **SUBSECTION, THE PRODUCER RESPONSIBILITY ORGANIZATION SHALL:**

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

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

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

17 **B. PUBLIC OUTREACH, EDUCATION, AND**
18 **COMMUNICATION ARE PROVIDED IN A CONSISTENT MANNER.**

19 **(IV) THE PRODUCER RESPONSIBILITY ORGANIZATION**
20 **ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION AND ANY ADDITIONAL**
21 **PRODUCER RESPONSIBILITY ORGANIZATIONS DESIGNATED UNDER THIS**
22 **PARAGRAPH MAY CREATE A REPRESENTATIVE ORGANIZATION TO REPRESENT THE**
23 **PARTICIPATING PRODUCER RESPONSIBILITY ORGANIZATIONS TO IMPLEMENT THE**
24 **REQUIREMENTS OF THIS SUBTITLE.**

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

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

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

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

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

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

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

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

17 ~~2.~~ (II) CONSIDER THE WRITTEN RECOMMENDATIONS OF
 18 THE ADVISORY COUNCIL PROVIDED UNDER § 9-2505(G)(6) OF THIS SUBTITLE AND
 19 RESPOND IN WRITING TO THE ADVISORY COUNCIL.

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

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

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

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

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

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

10 (I) POSTCONSUMER RECYCLED CONTENT GOALS;

11 (II) RECYCLABILITY AND RECYCLING RATE GOALS;

12 (III) REUSE GOALS;

13 (IV) PACKAGING REDUCTION GOALS;

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

16 (VI) CONTAMINATION REDUCTION RATE GOALS;

17 (VII) GREENHOUSE GAS REDUCTION GOALS; AND

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

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

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

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

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

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

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

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

10 **(I) PROMOTE THE RESPONSIBLE END-OF-LIFE MANAGEMENT**
11 **OF PACKAGING MATERIALS;**

12 **(II) PROVIDE INFORMATION ON HOW TO PREVENT LITTER OF**
13 **PACKAGING MATERIALS;**

14 **(III) PROVIDE RECYCLING AND ORGANICS RECYCLING**
15 **INSTRUCTIONS THAT ARE, TO THE EXTENT PRACTICABLE:**

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

18 2. **EASY TO UNDERSTAND; AND**

19 3. **EASILY ACCESSIBLE; AND**

20 **(IV) PROVIDE FOR OUTREACH AND EDUCATION THAT ARE:**

21 1. **DESIGNED TO ACHIEVE PACKAGING MATERIALS**
22 **MANAGEMENT GOALS AND REQUIREMENTS, INCLUDING THE PREVENTION OF**
23 **CONTAMINATION OF PACKAGING MATERIALS;**

24 2. **COORDINATED ACROSS PROGRAMS TO AVOID**
25 **CONFUSION FOR CONSUMERS; AND**

26 3. **DEVELOPED IN CONSULTATION WITH LOCAL**
27 **GOVERNMENTS AND OTHER STAKEHOLDERS;**

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

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

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

6 **(II) THE PROCESS FOR APPROVING OR DENYING A REQUEST**
7 **FOR REIMBURSEMENT;**

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

10 **(IV) THE PROCESS FOR PROVIDING REIMBURSEMENT FOR**
11 **MULTIPLE BRANDS OF PACKAGING MATERIALS;**

12 **(13) (I) PROVIDE THE WRITTEN RECOMMENDATIONS FROM THE**
13 **ADVISORY COUNCIL PROVIDED UNDER § 9-2505(G)(6) OF THIS SUBTITLE AND THE**
14 **PRODUCER RESPONSIBILITY ORGANIZATION'S WRITTEN RESPONSE TO THE**
15 **ADVISORY COUNCIL; AND**

16 **(II) DESCRIBE HOW THE WRITTEN RECOMMENDATIONS FROM**
17 **THE ADVISORY COUNCIL WERE CONSIDERED AND ADDRESSED IN THE**
18 **DEVELOPMENT OF THE PLAN; AND**

19 **(14) INCLUDE ANY OTHER INFORMATION THAT IS REQUIRED BY THE**
20 **DEPARTMENT.**

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

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

31 **(I) PROVIDE THE METHOD FOR EITHER DIRECT INVESTMENTS**
32 **OR REIMBURSEMENTS FOR IMPROVING INFRASTRUCTURE FOR REUSE, ORGANICS**

1 RECYCLING, AND RECYCLING IN ACCORDANCE WITH SUBSECTION ~~(B)(11)~~ (C)(11) OF
2 THIS SECTION;

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

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

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

12 3. PROCESSING PACKAGING MATERIALS, INCLUDING
13 REMOVING CONTAMINATION; AND

14 4. ~~RECYCLING PACKAGING MATERIALS THAT ARE~~
15 ~~DIVERTED TO BE RECYCLED OR COMPOSTED IN THE STATE~~ CONVERTING
16 PACKAGING MATERIALS THAT ARE DIVERTED TO BE RECYCLED OR COMPOSTED
17 INTO COMMODITY MATERIALS;

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

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

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

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

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

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

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

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

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

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

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

14 (I) BASED ON:

15 1. THE POPULATION SIZE OF A LOCAL JURISDICTION;

16 2. THE DISTANCE TO THE ~~NEAREST RECYCLING OR~~
17 ORGANICS RELEVANT MATERIALS RECYCLING FACILITY OR ORGANICS RECYCLING
18 FACILITY;

19 3. THE COMMODITY VALUE OF RECYCLED PACKAGING
20 MATERIALS; AND

21 4. ANY SOCIOECONOMIC OR GEOGRAPHIC FACTOR, AS
22 DETERMINED BY THE DEPARTMENT; AND

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

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

30 1. PUBLISH A PROPOSED FEE ON ITS WEBSITE; AND

31 2. ALLOW 90 CALENDAR DAYS FOR PUBLIC COMMENT.

1 **(II) THE FEE STRUCTURE ESTABLISHED UNDER PARAGRAPH**
2 **(1)(III) OF THIS SUBSECTION SHALL BE VARIABLE BASED ON:**

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

5 ~~(II)~~ **2. AN ECO-MODULATION OF FEES, INCLUDING**
6 **ESTABLISHING:**

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

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

11 ~~(III)~~ **3. ANY OTHER FACTOR, AS DETERMINED BY THE**
12 **DEPARTMENT.**

13 **(4) (I) A PRODUCER RESPONSIBILITY ORGANIZATION SHALL**
14 **RETAIN ANY FEE COLLECTED UNDER THIS SUBSECTION IN ITS OWN ACCOUNT.**

15 **(II) THE DEPARTMENT MAY REQUEST AT ANY TIME AN AUDIT OF**
16 **THE FINANCIAL RECORDS OF A PRODUCER RESPONSIBILITY ORGANIZATION.**

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

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

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

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

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

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

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

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

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

12 **(I) THE PRODUCER RESPONSIBILITY PLAN COMPLIES WITH**
13 **THE REQUIREMENTS OF THIS SECTION, INCLUDING WHETHER THE FINANCING**
14 **METHOD WILL COVER THE COSTS OF IMPLEMENTING THE PLAN; AND**

15 **(II) THE PRODUCER RESPONSIBILITY ORGANIZATION ENGAGED**
16 **SUFFICIENTLY WITH STAKEHOLDERS, INCLUDING LOCAL GOVERNMENTS, IN**
17 **DEVELOPING THE PLAN.**

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

21 **(I) THE DEPARTMENT'S COST OF REVIEWING THE PLAN; AND**

22 **(II) THE DEPARTMENT'S ESTIMATED COSTS OF**
23 **ADMINISTERING, OVERSEEING, AND ENFORCING THE PLAN BETWEEN THE INITIAL**
24 **DATE OF APPROVAL AND THE DATE OF THE INITIAL ANNUAL REPORT REQUIRED**
25 **UNDER § 9-2507 OF THIS SUBTITLE.**

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

29 ~~(I)~~ (J) **(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION**
30 **AND SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, AN APPROVED PRODUCER**
31 **RESPONSIBILITY PLAN SHALL EXPIRE AFTER 5 YEARS.**

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

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

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

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

14 **(I) REQUIRE THAT A PRODUCER RESPONSIBILITY**
15 **ORGANIZATION AMEND THE PRODUCER RESPONSIBILITY PLAN; AND**

16 **(II) IMPOSE AN ADMINISTRATIVE PENALTY ON A PRODUCER**
17 **RESPONSIBILITY ORGANIZATION IN ACCORDANCE WITH § 9-2510(C) OF THIS**
18 **SUBTITLE.**

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

24 **9-2505.**

25 **(A) THERE IS A PRODUCER RESPONSIBILITY PLAN ADVISORY COUNCIL.**

26 **(B) THE PURPOSE OF THE ADVISORY COUNCIL IS TO PROVIDE ADVICE TO**
27 **THE DEPARTMENT AND PRODUCER RESPONSIBILITY ORGANIZATIONS FOR**
28 **DRAFTING, AMENDING, AND IMPLEMENTING PRODUCER RESPONSIBILITY PLANS.**

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

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

1 1. LOCAL GOVERNMENT AGENCIES RESPONSIBLE FOR
2 RECYCLING PROGRAMS;

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

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

7 4. ORGANICS RECYCLING PROCESSORS;

8 5. THE CONSUMER GOODS SECTOR;

9 6. RETAIL AND SMALL BUSINESSES; AND

10 7. MATERIAL-ORIENTED TRADE GROUPS;

11 (II) A REPRESENTATIVE FROM EACH PRODUCER
12 RESPONSIBILITY ORGANIZATION;

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

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

17 (V) AT LEAST ONE REPRESENTATIVE OF AN ENVIRONMENTAL
18 JUSTICE ADVOCACY ORGANIZATION; AND

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

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

24 (I) ALL GEOGRAPHIC REGIONS OF THE STATE;

25 (II) LARGE AND SMALL COUNTIES AND MUNICIPALITIES; AND

26 (III) THE VARIABILITY IN HOW WASTE AND RECYCLABLE AND
27 COMPOSTABLE MATERIALS ARE COLLECTED AND PROCESSED IN THE STATE.

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

4 **(4) (I) THE TERM OF A MEMBER IS 4 YEARS AND A MEMBER MAY BE**
5 **REAPPOINTED.**

6 **(II) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY**
7 **THE TERMS PROVIDED FOR MEMBERS OF THE ADVISORY COUNCIL ON OCTOBER 1,**
8 **2023.**

9 **(III) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE**
10 **UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.**

11 **(IV) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN**
12 **SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED**
13 **AND QUALIFIES.**

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

16 **(E) A MEMBER OF THE ADVISORY COUNCIL:**

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

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

21 **(F) THE ADVISORY COUNCIL SHALL MEET AT LEAST QUARTERLY.**

22 **(G) THE ADVISORY COUNCIL SHALL:**

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

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

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

1 **(4) MAKE RECOMMENDATIONS TO THE DEPARTMENT REGARDING**
2 **PRODUCER RESPONSIBILITY PLAN APPROVAL;**

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

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

11 **9-2506.**

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

21 **(B) (1) IF MULTIPLE PRODUCER RESPONSIBILITY ORGANIZATIONS**
22 **REGISTER APPROVED PRODUCER RESPONSIBILITY PLANS WITH THE DEPARTMENT**
23 **IN ACCORDANCE WITH THIS SUBTITLE, THE PRODUCER RESPONSIBILITY**
24 **ORGANIZATIONS SHALL COORDINATE REIMBURSEMENT REQUESTED UNDER THIS**
25 **SECTION.**

26 **(2) MULTIPLE PRODUCER RESPONSIBILITY ORGANIZATIONS MAY**
27 **ESTABLISH A THIRD-PARTY ENTITY TO COORDINATE REIMBURSEMENT IN**
28 **ACCORDANCE WITH THIS SUBSECTION.**

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

33 **9-2507.**

34 **(A) BEGINNING MARCH 1, 2027, EACH PRODUCER RESPONSIBILITY**
35 **ORGANIZATION THAT HAS AN APPROVED PRODUCER RESPONSIBILITY PLAN ON FILE**

1 WITH THE DEPARTMENT SHALL REPORT ANNUALLY TO THE DEPARTMENT ON THE
2 PROGRESS TOWARD MEETING PLAN REQUIREMENTS AND GOALS FOR THE
3 IMMEDIATELY PRECEDING CALENDAR YEAR.

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

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

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

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

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

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

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

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

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

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

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

1 ~~(5)~~ (4) THE TOTAL COST OF IMPLEMENTING THE PLAN, AS
2 DETERMINED BY AN INDEPENDENT FINANCIAL AUDITOR INCLUDING:

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

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

7 ~~(6)~~ (5) SAMPLES OF ALL EDUCATIONAL MATERIALS PROVIDED TO
8 CONSUMERS OR OTHER ENTITIES;

9 ~~(7)~~ (6) A DETAILED DESCRIPTION OF THE ACTIONS TAKEN AND AN
10 EVALUATION OF THE METHODS USED TO DISSEMINATE EDUCATIONAL MATERIALS,
11 INCLUDING RECOMMENDATIONS, IF ANY, FOR HOW THE EDUCATIONAL COMPONENT
12 OF THE PLAN CAN BE IMPROVED;

13 ~~(8)~~ (7) A DETAILED DESCRIPTION OF INVESTMENTS MADE IN
14 MARKET DEVELOPMENT AND FOR IMPROVING REUSE, ORGANICS RECYCLING, AND
15 RECYCLING INFRASTRUCTURE;

16 ~~(9)~~ (8) PROOF OF A THIRD-PARTY AUDIT OF:

17 (I) THE REDUCTION IN PACKAGING REPORTED;

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

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

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

24 ~~(v)~~ THE OVERALL REDEMPTION RATE AND RECYCLING RATE OF
25 BEVERAGE CONTAINERS IN THE STATE; AND

26 ~~(10)~~ (9) ANY OTHER INFORMATION AS REQUIRED BY THE
27 DEPARTMENT.

28 (C) WHEN PROVIDING THE DEPARTMENT WITH THE ANNUAL REPORT
29 REQUIRED UNDER THIS SECTION, A PRODUCER RESPONSIBILITY ORGANIZATION
30 SHALL PAY TO THE DEPARTMENT THE DEPARTMENT'S ESTIMATED COSTS OF

1 ADMINISTERING, OVERSEEING, AND ENFORCING THE PLAN FOR THE 1 YEAR
2 IMMEDIATELY FOLLOWING THE ANNUAL REPORT.

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

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

10 9-2508.

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

16 9-2509.

17 THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THIS
18 SUBTITLE.

19 9-2510.

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

23 (1) THIS SUBTITLE;

24 (2) ANY REGULATION ADOPTED UNDER THIS SUBTITLE; OR

25 (3) ANY ORDER ISSUED UNDER THIS SUBTITLE.

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

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

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

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

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

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

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

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

14 (C) IF, BASED ON THE ANNUAL REPORT SUBMITTED UNDER § 9-2507 OF
15 THIS SUBTITLE, THE PERFORMANCE GOALS ESTABLISHED UNDER ~~§ 9-2504(B)(3)~~ §
16 9-2504(C)(3) OF THIS SUBTITLE HAVE NOT BEEN ACHIEVED, THE DEPARTMENT MAY
17 IMPOSE AN ADMINISTRATIVE PENALTY, NOT TO EXCEED ~~\$5,000~~ \$250,000, ON THE
18 PRODUCER RESPONSIBILITY ORGANIZATION.

19 (D) ANY PENALTY COLLECTED BY THE DEPARTMENT UNDER THIS SECTION
20 SHALL BE PAID INTO THE STATE RECYCLING TRUST FUND ESTABLISHED UNDER §
21 9-1707 OF THIS TITLE.

22 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 1,
23 2024, each local government in the State shall file a feasibility plan with the Department
24 of the Environment that prioritizes the sale of recycled packaging materials back to
25 manufacturers that have a manufacturing facility in the State.

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

28 (1) five members in 2024;

29 (2) five members in 2025;

30 (3) five members in 2026; and

31 (4) the remaining members in 2027.

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.