

House Bill 3251

Sponsored by COMMITTEE ON ENERGY AND ENVIRONMENT

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Establishes product stewardship program for household hazardous waste.

A BILL FOR AN ACT

Relating to household hazardous waste stewardship; creating new provisions; and amending ORS 459.415.

Be It Enacted by the People of the State of Oregon:

SECTION 1. As used in sections 1 to 10 of this 2015 Act:

(1) **"Brand"** means a name, symbols, words or marks that identify a covered product and attribute the product to the owner of the brand as the manufacturer.

(2) **"Covered entity"** means any Oregon household, a business that employs 10 or fewer individuals, a not-for-profit organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code that employs 10 or fewer individuals, or any person giving seven or fewer covered products to a stewardship organization at any one time.

(3) **"Covered product"** means a product included on the list adopted by the Environmental Quality Commission under section 7 of this 2015 Act as a product that, if discarded, would constitute a household hazardous waste as that term is defined in ORS 459.005.

(4) **"Environmentally sound management practices"** means practices that comply with all applicable laws, including but not limited to adequate record keeping, tracking the fate of recycled materials, performance audits and inspections, provisions for reuse and refurbishment, compliance with worker health and safety requirements, maintaining liability insurance and financial assurances and practices that may be adopted by rule by the Environmental Quality Commission.

(5)(a) **"Manufacturer"** means any person, irrespective of the selling technique used, including by means of remote sale:

(A) That manufactures covered products under a brand that it owns or is licensed to use;

(B) That sells covered products manufactured by others under a brand that the seller owns;

(C) That manufactures covered products without affixing a brand;

(D) That manufactures covered products to which it affixes a brand that it does not own;

or

(E) On whose account covered products manufactured outside the United States are imported into the United States. This subparagraph does not apply if, at the time the covered products are imported into the United States, another person is registered as the manufacturer of the brand of the covered products.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (6) "Orphan product" means a covered product for which no manufacturer can be iden-
2 tified.

3 (7) "Person" means the United States, the state or a public or private corporation, local
4 government unit, public agency, individual, partnership, association, firm, trust, estate or
5 other legal entity.

6 (8) "Premium service" means services such as at-home pickup services, including
7 curbside pickup service.

8 (9) "Retailer" means a person that offers new covered products for sale at retail through
9 any means, including but not limited to remote offerings such as sales outlets, catalogs or
10 the Internet.

11 (10) "Return share" means the minimum percentage of covered products that a
12 stewardship organization is responsible for collecting, transporting and recycling.

13 (11) "Return share by weight" means the minimum total weight of covered products that
14 a stewardship organization is responsible for collecting, transporting and recycling.

15 (12) "Stewardship organization" means a corporation, nonprofit organization or other le-
16 gal entity created by a manufacturer or a group of manufacturers to implement a
17 stewardship program as described in sections 1 to 10 of this 2015 Act.

18 (13) "Stewardship program" means a statewide plan for collecting, transporting and re-
19 cycling covered products.

20 **SECTION 2.** A manufacturer or retailer may not sell or offer for sale any covered prod-
21 uct to any person in this state unless:

22 (1) The covered product is labeled with a brand; and

23 (2) The brand is included in a plan that is filed with the Department of Environmental
24 Quality pursuant to section 4 of this 2015 Act.

25 **SECTION 3.** (1) Before January 1 of each year, a stewardship organization for covered
26 products sold or offered for sale in this state shall register with the Department of Envi-
27 ronmental Quality, for a period to cover the upcoming calendar year, on a form provided by
28 the department. The registration shall include:

29 (a) A list of all manufacturers that are participating in the stewardship organization.

30 (b) A list of all the brands manufactured, sold or imported by the manufacturers partic-
31 ipating in the stewardship organization, including those brands being offered for sale in this
32 state by the manufacturer.

33 (c) Any other information required by the department to implement sections 1 to 10 of
34 this 2015 Act.

35 (2)(a) Not later than July 1 of each year, a stewardship organization for covered products
36 sold or offered for sale in this state shall pay an annual registration fee to the department.

37 (b) The registration fee shall be in an amount prescribed by the department by rule,
38 based on the estimated weight of covered products collected under the plan submitted by the
39 stewardship organization for the upcoming calendar year.

40 **SECTION 4.** (1) A stewardship organization shall submit a plan to the Department of
41 Environmental Quality at the time of payment of the annual registration fee required under
42 section 3 of this 2015 Act.

43 (2) The stewardship organization's plan must describe how the stewardship organization
44 will:

45 (a) Finance, manage and conduct a statewide stewardship program to collect covered

1 products from covered entities in this state.

2 (b) Provide for environmentally sound management practices to collect, transport and
3 recycle covered products.

4 (c) Provide for public education on reducing the use of covered products.

5 (d) Provide for advertising and promotion of collection opportunities statewide and on a
6 regular basis.

7 (e) Include convenient service in every county in this state and at least one collection
8 site for any city with a population of at least 10,000. A collection site for a county may be
9 the same as a collection site for a city in the county. Collection sites shall be staffed and
10 open to the public at a frequency adequate to meet the needs of the area being served. A
11 stewardship organization may provide collection service jointly with another stewardship
12 organization.

13 (3) A stewardship organization shall:

14 (a) Meet or exceed the requirements for collection sites described in subsection (2) of this
15 section.

16 (b) Provide for collection, transportation and recycling of covered products for covered
17 entities free of charge, except that a stewardship organization that provides premium service
18 for a covered entity may charge for the additional cost of that premium service.

19 (c) Implement the plan required under this section.

20 (d) Notify retailers that sell covered products by manufacturers participating in the
21 stewardship organization about the stewardship program.

22 (e) Conduct a statistically significant sampling or actual count of the covered products
23 collected by the stewardship organization each calendar year using a methodology approved
24 by the department. The stewardship organization shall report the results of the sampling or
25 count to the department, in accordance with the approved sampling methodology or as di-
26 rected by the department, no later than March 1 of the following calendar year. The report
27 must include:

28 (A) A list of all brands identified during the sampling or count by the stewardship or-
29 ganization;

30 (B) The weight of covered products identified for each brand during the sampling or
31 count; and

32 (C) The total weight of covered products, including orphan products, collected from cov-
33 ered entities in the state by the stewardship organization during the previous calendar year.

34 (f) By March 1 of each year, provide a report to the department that details how the plan
35 required under this section was implemented during the previous calendar year.

36 (g) Establish and maintain a website that provides information about collection sites
37 under the plan, which manufacturers participate in the stewardship organization under the
38 plan and which covered products are sold or offered for sale in this state by participating
39 manufacturers.

40 (4)(a) A stewardship organization may implement a stewardship program on behalf of one
41 manufacturer, or a group of manufacturers, provided that the sum of the individual return
42 shares by weight under section 6 of this 2015 Act for manufacturers that participate in the
43 stewardship program must be at least 20 percent.

44 (b) The total return share for all manufacturers that participate in a stewardship or-
45 ganization shall be the return share for the stewardship program implemented by the

1 **stewardship organization for purposes of sections 1 to 10 of this 2015 Act.**

2 **(5) By July 1 of each year, a stewardship organization that does not meet the return**
 3 **share by weight for its program for the previous calendar year shall pay the department for**
 4 **the amount not achieved at a rate determined by the department to be equivalent to the**
 5 **amount the stewardship organization would have paid for each pound of the return share not**
 6 **met, plus 10 percent.**

7 **(6) A manufacturer with less than a 20 percent return share is required to participate in**
 8 **a stewardship organization for a group of manufacturers.**

9 **SECTION 5. (1) A stewardship organization that collects, transports and recycles covered**
 10 **products in an amount that exceeds the stewardship program’s return share by weight for**
 11 **a calendar year may claim recycling credits for use in succeeding calendar years as follows:**

12 **(a) A program may claim one recycling credit for each pound of covered products col-**
 13 **lected, transported and recycled in excess of the program’s return share by weight for a**
 14 **calendar year;**

15 **(b) A program may retain all or part of its recycling credits or may sell any portion of**
 16 **its recycling credits to another program at a price negotiated by the parties;**

17 **(c) A program may use recycling credits earned or purchased to meet up to 15 percent**
 18 **of its return share by weight during any calendar year. One recycling credit may be used to**
 19 **meet one pound of return share by weight; and**

20 **(d) By rule, the Environmental Quality Commission may change the percentage of the**
 21 **return share by weight specified in paragraph (c) of this subsection.**

22 **(2) A stewardship organization must include the following information on recycling**
 23 **credits in its annual report to the Department of Environmental Quality required by section**
 24 **4 of this 2015 Act:**

25 **(a) The number of recycling credits the stewardship organization possessed at the be-**
 26 **ginning of the previous calendar year.**

27 **(b) The total number of recycling credits the stewardship organization purchased and**
 28 **sold during the previous calendar year, the names of the stewardship organizations from**
 29 **which recycling credits were purchased or to which recycling credits were sold and the**
 30 **number of recycling credits purchased from or sold to each stewardship organization.**

31 **(c) The number of recycling credits the stewardship organization used to meet its return**
 32 **share by weight for the previous calendar year.**

33 **(d) The number of recycling credits the stewardship organization is claiming from the**
 34 **previous calendar year. This number is the difference between the total weight of covered**
 35 **products that the stewardship organization collected, transported and recycled during the**
 36 **previous calendar year and the stewardship organization’s return share by weight for the**
 37 **previous calendar year.**

38 **SECTION 6. The Department of Environmental Quality shall:**

39 **(1) Review and approve stewardship organization plans that comply with section 4 of this**
 40 **2015 Act.**

41 **(2)(a) Determine the return share and return share by weight for each calendar year for**
 42 **each manufacturer. The return share shall be determined by dividing the total weight of**
 43 **covered products of that manufacturer’s brands by the total weight of covered products for**
 44 **all manufacturers’ brands. The return share by weight shall be determined by multiplying**
 45 **the return share for each such manufacturer by the total weight in pounds of covered pro-**

1 **ducts, including orphan products, as determined by the department.**

2 **(b) For each manufacturer, determine the return share and return share by weight for**
 3 **calendar years through 2018 based on the best available public return share data and public**
 4 **weight data from within the United States for covered products from covered entities. For**
 5 **subsequent years, the return share of covered products for each manufacturer shall be based**
 6 **on the most recent annual sampling or count of covered products. For subsequent years, the**
 7 **total weight in pounds of covered products shall be based on the total weight of covered**
 8 **products, including orphan products, as determined by the department.**

9 **(c) By May 1 of each year, provide to each manufacturer that had a return share deter-**
 10 **mined under this section its return share and its return share by weight for the following**
 11 **year.**

12 **(3) Determine a stewardship organization’s annual registration fee for purposes of sec-**
 13 **tion 4 of this 2015 Act.**

14 **(4) Report biennially to the Legislative Assembly on the operation of the statewide sys-**
 15 **tem for collection, transportation and recycling of covered products.**

16 **SECTION 7. (1) The Environmental Quality Commission may adopt rules as necessary to**
 17 **implement sections 1 to 10 of this 2015 Act.**

18 **(2) As part of the rules adopted under this section, the commission shall adopt a list of**
 19 **products to be covered by sections 1 to 10 of this 2015 Act.**

20 **SECTION 8. (1) In accordance with the applicable provisions of ORS chapter 183 relating**
 21 **to contested case proceedings, the Department of Environmental Quality may issue an order**
 22 **requiring compliance with the provisions of sections 1 to 10 of this 2015 Act.**

23 **(2) The department may bring an action against any manufacturer or stewardship or-**
 24 **ganization in violation of the provisions of sections 1 to 10 of this 2015 Act.**

25 **SECTION 9. Fees collected by the Department of Environmental Quality under sections**
 26 **1 to 10 of this 2015 Act shall be deposited in the State Treasury to the credit of the Household**
 27 **Hazardous Waste Stewardship Fund established under section 10 of this 2015 Act.**

28 **SECTION 10. The Household Hazardous Waste Stewardship Fund is established, separate**
 29 **and distinct from the General Fund. Interest earned by the Household Hazardous Waste**
 30 **Stewardship Fund shall be credited to the fund. Moneys in the fund are continuously appro-**
 31 **propriated to the Department of Environmental Quality and may be used only to pay the costs**
 32 **of implementing sections 1 to 10 of this 2015 Act.**

33 **SECTION 11. ORS 459.415 is amended to read:**

34 **459.415. (1) Before any local government **unit or stewardship organization operating a****
 35 **household hazardous waste stewardship program under sections 1 to 10 of this 2015 Act op-**
 36 **erates a permanent collection depot or periodic collection events for household hazardous waste or**
 37 **hazardous waste generated by conditionally exempt small quantity generators, the local government**
 38 ****unit or stewardship organization** shall receive written approval from the Department of Environ-**
 39 **mental Quality.**

40 **(2) In requesting written approval from the department, a local government **unit or stewardship****
 41 ****organization** proposing to operate a permanent collection depot or periodic collection events shall**
 42 **submit a detailed proposal. The proposal shall include at least the following information:**

43 **(a) Measures to be taken to insure safety of the public and employees or volunteers working at**
 44 **the collection site;**

45 **(b) Measures to be taken to prevent spills or releases of hazardous waste and a plan to respond**

1 to a spill or release if one occurs;

2 (c) A copy of the request for proposals for a contractor to properly manage and recycle or dis-
3 pose of the waste collected in a manner consistent with the rules of the Environmental Quality
4 Commission for hazardous waste collection, storage, transportation and disposal; and

5 (d) Measures to be implemented to insure no waste is accepted from generators of hazardous
6 waste subject to regulation under ORS 466.005 to 466.385 unless the intent is to specifically collect
7 such waste.

8 (3) The department may request additional information about the proposed program from the
9 local government unit **or stewardship organization**. The department shall not approve a program
10 unless the program provides adequate provisions to protect the public health, safety and the envi-
11 ronment.

12 **SECTION 12.** (1) Sections 1 to 10 of this 2015 Act and the amendment to ORS 459.415 by
13 section 11 of this 2015 Act apply to all manufacturers engaging in the activities set forth in
14 section 1 (5) of this 2015 Act before, on or after January 1, 2018.

15 **SECTION 13.** (1) Sections 1 to 10 of this 2015 Act and the amendments to ORS 459.415
16 by section 11 of this 2015 Act become operative January 1, 2018.

17 (2) The Environmental Quality Commission and the Department of Environmental Qual-
18 ity may take any action before the operative date specified in subsection (1) of this section
19 that is necessary for the commission or the department to exercise, on and after the oper-
20 ative date specified in subsection (1) of this section, all of the duties, functions and powers
21 conferred on the commission or the department by sections 1 to 10 of this 2015 Act and the
22 amendments to ORS 459.415 by section 11 of this 2015 Act.

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