

SB 582 -9 STAFF MEASURE SUMMARY

Senate Committee On Energy and Environment

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Meeting Dates: 2/23, 2/25, 3/2, 4/8, 4/13

WHAT THE MEASURE DOES:

Directs Department of Environmental Quality to study and make recommendations for modernizing Oregon's recycling system and provide results of study in report to interim committees of Legislative Assembly no later than September 15, 2022. Sunsets January 2, 2023. Takes effect on 91st day following adjournment sine die.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-9 Replaces the measure. Make legislative findings. Establishes producers for covered products for purpose of Act. Requires that each covered producer register and be a member of **producer responsibility organization** (PRO) that administers a producer responsibility program (Program). Requires producer that registers with PRO to pay fee and provide records upon request of PRO. Requires PRO to work with recycling system participants in order to ensure, to extent practicable, that products collected are recycled by responsible end markets. Requires PRO to make a searchable registry of compliant and not compliant organizations available on their website. Requires establishment of PRO **coordinating body** and submission of coordination plan to the Department of Environmental Quality (DEQ) if multiple PRO programs are approved. Authorizes DEQ to serve as the coordinating body or oversee the coordinating body, if requested by the PROs. Requires Environmental Quality Commission (EQC) to adopt rules related to methods for calculating market share and market share coordinating plans. Establishes parameters for coordination plan approval, submittal and compliance.

Authorizes producer to demonstrate to DEQ that **material is exempt** from covered products requirements if it meets certain requirements, including that it is recycled at a responsible end market. Exempts **"small" producers** from requirement to be a member of a PRO. Authorizes EQC to adopt rules to exempt producers that do not exceed a **minimum market share**.

Requires PRO to submit **producer responsibility program plan** (Plan) to DEQ and establishes requirements for Plan. Requires DEQ to approve, approve with conditions or reject plan within 120 days of being submitted and establishes response time limits if Plan is rejected and resubmitted. Authorizes DEQ to bring enforcement action if a second revision is required, and it is not submitted in timely manner or it does not comply with certain requirements. Requires DEQ to solicit feedback on plan from **Oregon Recycling System Advisory Council (ORSAC)** prior to taking action on Plan. Stipulates approved Plan is valid for three years and subsequent approved plan would be valid for four years. Effective April 1, 2027, plans would have a duration of five years. Specifies program changes that would require a **Plan amendment** to be approved by DEQ or just written notification.

Requires PRO to establish **fee schedule** to be paid by members sufficient to meet financial obligations and must be designed to differentiate between types of covered products proportional to the costs to the PRO for that covered product type. Requires schedule to include **material-specific base fee rate**. Requires that covered products that are not accepted by recycling collection programs be assessed base fee rates assessed proportional to relative to financial obligations. Stipulates that in addition to the base fees membership fee schedule must incentivize producers to continually reduce environmental and human health impacts of covered products. Authorizes PRO to propose an alternative membership fee structure to DEQ and authorizes DEQ to approve it if it determines certain factors. Requires PRO to establish **uniform fees** for producers with gross revenue of less than

\$5 million or that sold less than five metric tons of products for use in Oregon in the previous calendar year.

Requires PRO to submit **annual report**, that includes certain information on the development, implementation and operation of the program, to DEQ for approval no later than July 1. Requires DEQ to review reports and solicit feedback from ORSAC and make reports available for public comment period of no less than 30 days. Establishes parameters if DEQ does not approve report, resubmittal of report and enforcement action of not resubmitted in timely manner or it does not meet requirements. Requires no later than 45 days after end of each calendar quarter PRO must provide **materials disposition report** to DEQ including certain information.

Requires PRO to, upon request, **fund in advance or reimburse** local government or local government's service provider, as appropriate, for eligible expenses. Stipulates what is and is not an eligible expense and requires EQC to establish methods for determining funding or reimbursement amounts by rule. Limits the amount of funding or reimbursement based on the population of a local government. Stipulates that the cost of upgrading or establishing recycling at **multifamily facilities** are eligible for funding or reimbursement by a PRO. Requires PRO to work with local governments, collection providers and other affected parties to provide recycling services to multifamily properties that do not receive recycling service or do not meet standards for adequate recycling. Requires PRO to expend no more that \$5 million per year on multifamily housing property site improvements properties located in low-income areas or properties that provide housing to tenants who the majority are low-income. Requires DEQ to conduct, and periodically repeat, **statewide needs assessment** in partnership with local governments and service providers to determine local interest in expanding option and recycling depots, provided funds are made available. Establishes parameters for requesting, receiving, reporting and auditing funding and reimbursements.

Requires PRO, in consultation with ORSAC, to develop **educational resources and promotional campaigns** to promote the uniform statewide collection list, that includes certain information. Requires PRO to provide opportunity for local governments and service providers to review and comment on draft materials. Requires educational resources and campaigns to be culturally responsive, printed in languages other than English and easily accessed at no cost to local governments and system users. Requires local government that provides opportunity to recycle to utilize and distribute educational resources. Requires PRO to coordinate and fund distribution of statewide promotional campaigns at least once per calendar year through media channels. Requires OSAC review and DEQ approval of educational resources prior to public distribution. Requires educational resources to be updated no later than four months following changes to the uniform statewide collection list.

Requires PRO to provide for the collection and responsible recycling of certain covered products identified by the EQC, in a way that meets targets, convenience standards and performance standards by first contracting, where possible with existing recycling **depots or drop off centers**, establishing and operating drop off centers and collection events; and make other arrangements for the collection of covered products in Plan. Requires PRO to ensure, to extent practicable, that covered products collected will be delivered to **responsible end markets**; managed according to the hierarchy of materials management; and managed in an environmentally protective way. Prohibits PRO from taking possession of covered products from processor without written consent.

Requires PRO to establish and implement program to clean up and **prevent litter and marine debris** no later than July 1, 2028. Requires PRO litter and marine debris program to provide grants or direct payments to eligible entities to carry out prevention, cleanup and research. Establishes what entities are eligible to receive grants and requires PROs, in aggregate, to expend \$10 million per years for grants, direct payments, and research, until 2030 when the EQC is required to annually adjust minimum expenditure in accordance with parameters. Requires PRO to consider needs of economically distressed or underserved communities when providing grants. Require DEQ to conduct and every six years **statewide needs assessment** to identify general locations where litter prevention and

cleanup is needed. Requires DEQ to provide written report of its findings to interim committees of Legislature relative to the environment.

Establishes the 17-member **ORSAC** and requires the Governor to appoint members to serve three-year terms. Requires DEQ to provide for both administrative support and compensation of members. Defines duties of Council, which includes making recommendations to DEQ and PROs and biennial reports to Legislature. Establishes process for DEQ and PROs to respond to ORSAC recommendations.

Prohibits **comingled recyclables** collected under Act from being delivered to comingled processing facilities unless facilities meet certain performance standards and have taken steps to implement recommendations related to opportunities and the removal of barriers for company ownership for women and minority individuals. Establishes additional requirements, effective January 1, 2027, related to health, safety and wellness of workers and workers at facility being provided with a living wage and supportive benefits.

Requires that local governments providing opportunity to recycle ensure **multifamily properties and nonresidential properties with multiple tenants** have: adequate space for collection; demonstrate plan for new construction and significant remodels; update and establish service standards; ensure container placement is accessible; and report on activities to meet requirements. Requires local governments to ensure that roll carts, bins, and containers purchased are independently certified and manufactured from at least 10 percent post-consumer recycled material.

Requires EQC to adopt rules, in consultation with PROs and ORSAC, to identify suitable materials for recycling and the method of collections. Requires rules to distinguish between certain factors. Requires EQC to consider certain factors when deciding whether a material should be included in a comingled recycling program for the uniform statewide collection list, collected separately, collected on-route, at a recycling depot, or by a PRO. Requires DEQ to establish and maintain **uniform statewide collection list** of materials appropriate to be collected through comingled recycling program. Requires EQC to establish collection targets, convenience standards and performance standards for PROs by rule. Requires DEQ, in consultation with PRO and ORSAC to establish list of specifically identified materials by considering certain criteria.

Requires EQC to adopt and revise once every five years **contamination management fee**, based on study of the cost to removing and disposing contaminants from comingled facilities, to be paid by PRO to comingled recycling facilities. Requires DEQ to contract with independent organization to conduct the study. Stipulates that comingled recycling processing facility that does not participate in the review process is not eligible to receive a contamination management fee. Requires the EQC to establish and periodically revise a **processor commodity risk fee** which PROs pay to comingled recycling processing facilities to ensure that producers share in the costs of fully processing comingled recyclables and reduce financial impact on ratepayers. Requires DEQ to contract with independent organization to conduct study, to be performed at least once every five years, to estimate the average eligible processing cost at comingled recycling facilities and report on costs. Requires DEQ to study the **compostability** of covered products and the effects of covered products on composting systems. Requires DEQ to submit final report and recommendations for legislation to the interim committee of the Legislative Assembly related to environment no later than December 15, 2026.

Establishes goal that the **statewide recycling rate for plastic** be at least 25 percent for calendar year 2039; at least 50 percent by 2040; and at least 70 percent by 2050. Authorizes the EQC to adjust statewide plastic recycling goal with certain limitations. Requires DEQ to determine annually if statewide plastic recycling goal is met and requires DEQ to have PRO amend existing, or submit new, producer responsibility program plan to address failure to meet the goal. Requires DEQ to establish **statewide recycling contamination reduction goals** and evaluate the relative cost-effectiveness of different contamination reduction practices, and to establish a list of approved

contamination reduction program elements. Requires DEQ to review and summarize statewide information and provide written report to interim committee of Legislative Assembly related to environment once every four years.

Requires **local governments** to implement program to reduce contamination and includes certain factors including a process for reviewing and revising once every five years. Requires DEQ in consultation with ORSAC to conduct, and update no less than once every five years, a statewide needs assessment to determine challenges facing residents of multifamily housing and make recommendations for improvements. Requires EQC to establish a fixed one-time fee for reviewing producer responsibility plan and an **annual fee for administering, implementing, and enforcing the Act**. Authorizes DEQ to enter into agreements with public bodies to, to establish program to reduce environmental impacts of covered products through means other than waste recovery, including prevention and reuse. Establishes producer responsibility fund consisting of money deposited from the one-time and administration fee to continuously appropriated to DEQ to pay for the program. Requires PRO to **pay prevention and reuse fee** reasonably calculated to support the waste prevention and reuse programs. Requires EQC to establish, by rule, standards for the evaluation and disclosure of environmental impacts through the **life cycle** of covered products. Requires large producers to perform evaluation of life cycle impacts on at least one percent of their covered products once every two years. Requires large producers to make life cycle evaluation results available to DEQ and make it available on the PRO website.

Establishes 15-member **Truth in Labeling Task Force** (Task Force). Requires the Speaker of the House and the President of the Senate to each appoint one member from their chambers to serve as nonvoting member in an advisory capacity. Requires the Governor to appoint remaining members to represent certain roles, populations and interests. Requires Task Force to study and evaluate misleading or confusing claims regarding recyclability of products made on a product. Requires Task Force to submit final report and recommendations for legislation to the interim committees of the Legislative Assembly related to the environment no later than June 1, 2022. Requires DEQ to provide staff support.

Prohibits person from operating a **comingled recycling processing facility** without site permit. Establishes permit requirements and directs EQC to prescribe requirements by rule. Including schedule for implementing and the date that a person is first required to obtain a permit. Directs DEQ to establish a certification program or approve a third-party operated program to certify comingled recycling processing facilities located outside of Oregon. Requires DEQ to establish forms and procedures to allow for consistency in evaluating in-bound contamination at reload and processing facilities and requires the results of such evaluation to be shared with local governments and DEQ.

Authorizes DEQ to enter and **inspect**, at any reasonable time, any public, private property for the purpose of investigating suspected violation of Act or rules adopted under Act. Requires PRO to maintain certain records for no less than five years. Authorizes DEQ to issue order requiring compliance and issue civil penalties for violations paid into the Waste Prevention and Reuse Fund. Authorizes DEQ to issue order to revoke PRO plan if certain determinations are made. Authorizes Department of Justice to bring action to prohibit sale of covered product into state if in violation of certain provisions of Act. Establishes requirements for recordkeeping. Prohibits person that operates yard debris or food waste collection program from promoting for accepting any material that cannot be effectively **composted**. Requires DEQ to conduct research or pilot projects, that does not exceed more than two years, to examine collection and compostability of materials.

Declares intent of Legislative Assembly that participating in PRO to implement program shall be exempt from state **antitrust laws** and provides immunity from federal antitrust laws.

Authorizes EQC to adopt rules as necessary to implement Act. Requires Oregon Department of Administrative Services in consultation with DEQ to study and assess **state procurement practices** as they relate to recycled products, recycled PETE and recycled materials. Requires DAS to report to appropriate interim committee of the Legislative Assembly and revise assessment every five years.

- Revenue Statement Issued
- Fiscal Statement Issued

BACKGROUND:

In January 2018, the Chinese government banned the import of certain plastic and paper grades and set tighter contamination standards for paper. The loss of China's markets disrupted recycling systems worldwide. In Oregon, communities had to make changes to their recycling collection programs, which included: increased customer rates, suspending recycling, or removing items from programs. In some cases, materials that were collected for recycling were disposed.

In May 2018, the Department of Environmental Quality (DEQ) formed the Recycling Steering Committee (RSC) with the intention of working with stakeholders to modernize Oregon's recycling systems. The RSC met from May of 2018 through September 2020.

Senate Bill 582 directs DEQ to study and make recommendations for modernizing Oregon's recycling system and provide results of study in report to interim committees of Legislative Assembly.