

House Bill 2065

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Kate Brown for Oregon Department of Environmental Quality)

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**.

Requires producers of covered products to join producer responsibility organization unless exempt. Requires producer responsibility organization to submit program plan to Department of Environmental Quality. Requires producer responsibility organizations to reimburse local governments for certain expenses.

Establishes Oregon Recycling System Advisory Council.

Directs department to establish uniform statewide collection list.

Establishes Producer Responsibility Fund.

Establishes Waste Prevention and Reuse Fund.

Prohibits sale in this state of products with deceptive or misleading claims about recyclability.

Requires commingled recycling processing facility to obtain disposal site permit.

Modifies definition of "opportunity to recycle."

Imposes civil penalty not to exceed \$25,000 for each violation of provisions of Act.

A BILL FOR AN ACT

Relating to modernizing Oregon's recycling system; creating new provisions; amending ORS 90.318, 459.005, 459.015, 459.035, 459.772, 459.995, 459A.005, 459A.007, 459A.008, 459A.025, 459A.075 and 459A.080; and repealing ORS 459A.675, 459A.680 and 459A.685.

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

MODERNIZING OREGON'S RECYCLING SYSTEM

(Legislative Findings; Definitions)

SECTION 1. Sections 2 to 36 of this 2021 Act are added to and made a part of ORS chapter 459A.

SECTION 2. Legislative findings. The Legislative Assembly finds and declares that:

(1) Oregon's statewide recovery rate, which seeks to preserve public health, safety and welfare and conserve energy and natural resources, has declined each year between 2013 and 2018, and that Oregon is not on track to meet the statewide waste recovery and generation goals that the Legislative Assembly established in 2015.

(2) The way Oregon's residents use and consume materials and products, and the way residents manage them when no longer wanted, has changed significantly in the last 35 years since Oregon's first recycling programs were established, and that the state's recycling system has been unable to adapt to such changes. These factors have created unintended consequences, such as the deterioration of natural systems regionally and worldwide, as well as increased levels of pollution and reductions in human well-being, especially for the most vulnerable populations.

(3) It is necessary to adopt a policy that will minimize such unintended consequences across the entire life cycle of products and that will require producers of packaging and

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 printed paper sold or distributed in Oregon to help finance the management of and ensure
2 an environmentally sound stewardship program for their products.

3 (4) It is the State of Oregon's policy to prioritize practices that prevent and reduce the
4 negative environmental, social, economic and health impacts of production, consumption and
5 end-of-use management of products and packaging across their life cycle. It is the obligation
6 of producers to share in the responsibility to reduce those impacts.

7 **SECTION 3. Definitions.** As used sections 2 to 36 of this 2021 Act:

8 (1) "Aggregation point" means a location where covered products are transferred from
9 a collection vehicle into a container or vehicle that is used to transport the covered products
10 to a processing facility.

11 (2) "Commingled recycling" means the recycling or recovery of two or more materials
12 that are mixed together and that generally would be separated into individual materials at
13 a commingled recycling processing facility in order to be marketed.

14 (3) "Commingled recycling processing facility" means a facility that:

15 (a) Receives source separated recyclable materials that are commingled mixtures of
16 commodity types from a collection program required under ORS 459A.007; and

17 (b) Separates the recyclable materials described in paragraph (a) of this subsection into
18 marketable commodities or streams of materials that are intended for use or further pro-
19 cessing by others.

20 (4) "Contaminant" means any material set out for collection that is not on the list of
21 materials accepted for collection by a collection program or a material shipped to a recycling
22 end market that is not accepted or desired by that end market.

23 (5) "Contamination" means the presence of one or more contaminants in a recycling
24 collection or commodity stream in an amount or concentration that negatively impacts the
25 value of the material or negatively impacts a processor's ability to sort that material.

26 (6)(a) "Covered product" means:

27 (A) Packaging;

28 (B) Printing and writing paper; and

29 (C) Food serviceware generally intended for single use, including but not limited to:

30 (i) Paper or plastic plates, cups, bowls, cutlery or straws;

31 (ii) Aluminum foil; and

32 (iii) Pie plates.

33 (b) "Covered product" does not include:

34 (A) A beverage container, as defined in ORS 459A.700, that is returned for the refund
35 value established by ORS 459A.705 and is recycled;

36 (B) Bound books; and

37 (C) Napkins, paper towels or other paper intended to be used for cleaning or the absorp-
38 tion of liquids.

39 (7) "Large producer" means a producer that:

40 (a) In the most recent calendar year, produced more than 1,000 metric tons of covered
41 products for use in this state; or

42 (b) Is among the 50 largest producers of covered products in this state, based on market
43 share.

44 (8) "Litter" means waste that is improperly placed so as to be a nuisance or aesthetic,
45 health or environmental concern.

1 (9) “Local government” means:

2 (a) A city with a population of 4,000 or more;

3 (b) A county;

4 (c) A metropolitan service district; or

5 (d) A local government as described by the Environmental Quality Commission by rule.

6 (10) “Local government’s agent” includes a collection service franchise holder under ORS
7 459A.085 or any person authorized by a city, county or metropolitan service district to pro-
8 vide collection service.

9 (11) “Market share” means a producer’s percentage of all covered products sold in this
10 state during a specified time period, as calculated in accordance with methods established
11 by the Environmental Quality Commission by rule.

12 (12) “Mechanical recycling” means a form of recycling that does not change the basic
13 molecular structure of the material being recycled.

14 (13) “Metropolitan service district” means a metropolitan service district established
15 under ORS chapter 268.

16 (14) “Nonprofit organization” means an organization or group of organizations described
17 in section 501(c)(3) of the Internal Revenue Code that is exempt from income tax under
18 section 501(a) of the Internal Revenue Code.

19 (15) “Packaging” means:

20 (a) Materials used for the containment or protection of products, including but not lim-
21 ited to paper, plastic, glass or metal or a mixture thereof;

22 (b) Single-use bags, including but not limited to shopping bags;

23 (c) Take-out containers;

24 (d) Nondurable materials used in storage, shipping or moving, including but not limited
25 to moving boxes, file boxes and folders; and

26 (e) Other materials and forms, as determined by the Environmental Quality Commission
27 by rule.

28 (16) “Printing and writing paper” includes, but is not limited to, newspaper, magazines,
29 flyers, brochures, booklets, catalogs, telephone directories and paper used for copying, writ-
30 ing or other general use.

31 (17) “Processor” means a person that owns or operates a commingled recycling process-
32 ing facility.

33 (18) “Producer” means any person, irrespective of the selling technique used, including
34 that of remote sale, that:

35 (a) Manufactures a covered product or sells, offers for sale or distributes the product in
36 this state under the manufacturer’s own brand;

37 (b) Is the owner or licensee of a trademark under which a covered product is sold, offered
38 for sale or distributed in this state, whether or not the trademark is registered in this state;

39 (c) Sells a covered product in or imports a covered product into the United States for
40 use in a commercial enterprise that sells, offers for sale or distributes the covered product
41 in this state; or

42 (d) Sells, offers to sell or distributes a covered product in this state.

43 (19) “Producer responsibility organization” means a nonprofit organization established
44 by a producer or group of producers to administer a producer responsibility program ap-
45 proved by the Department of Environmental Quality under section 7 of this 2021 Act.

1 (20) “Producer responsibility program” means a statewide program for the responsible
2 management of covered products that is operated by a producer responsibility organization
3 pursuant to a plan approved by the Department of Environmental Quality under section 7
4 of this 2021 Act.

5 (21) “Responsible end market” means a materials market in which the recycling or re-
6 recovery of materials or the disposal of contaminants is conducted in a way that:

7 (a) Benefits the environment; and

8 (b) Minimizes risks to public health and worker health and safety.

9 (22) “Small producer” means a producer that:

10 (a) Is a nonprofit organization;

11 (b) Is a public body as defined in ORS 174.109;

12 (c) Has a gross revenue of less than \$1 million in this state for the organization’s most
13 recent fiscal year; or

14 (d) Produced or sold in Oregon less than one metric ton of covered products for use in
15 this state in the most recent calendar year.

16 (23) “Specifically identified material” means a material or covered product identified by
17 the Department of Environmental Quality under section 19 (8) of this 2021 Act.

18
19 (Producer Responsibility Organizations)
20

21 **SECTION 4. Duties of producers and producer responsibility organizations.** (1) Except as
22 provided in section 5 of this 2021 Act and subsection (2) of this section, each producer that
23 sells, offers to sell or distributes a covered product in this state must register with and be
24 a member of a producer responsibility organization that operates a producer responsibility
25 program approved by the Department of Environmental Quality under section 7 of this 2021
26 Act.

27 (2) A producer is not required to be a member of a producer responsibility organization
28 if, for any covered product the producer sells, offers to sell or distributes in this state, an-
29 other producer has registered with a producer responsibility organization as the producer
30 responsible for that covered product in this state.

31 (3) A producer that is registered with a producer responsibility organization must:

32 (a) Pay the fee calculated under the schedule established by the producer responsibility
33 organization pursuant to section 9 of this 2021 Act; and

34 (b) Upon request, provide the producer responsibility organization with records or other
35 information necessary for the organization to meet its obligations under sections 2 to 36 of
36 this 2021 Act.

37 (4) A producer responsibility program must support the recycling of covered products
38 that are:

39 (a) Identified on the uniform statewide collection list established under section 19 of this
40 2021 Act; or

41 (b) Targeted for recycling as necessary to meet the statewide plastic packaging recovery
42 goal established under section 20 of this 2021 Act.

43 (5) A producer responsibility organization shall make available on the organization’s
44 website:

45 (a) A searchable registry of the organization’s members; and

1 (b) The identity of any members that are currently not in compliance with sections 2 to
2 36 of this 2021 Act.

3 (6)(a) If more than one producer responsibility organization is formed to satisfy the re-
4 quirements of sections 2 to 36 of this 2021 Act, the producer responsibility organizations shall
5 establish a producer responsibility organization coordinating body. If requested by the pro-
6 ducer responsibility organizations, the department may serve as the coordinating body.

7 (b) The Environmental Quality Commission shall establish by rule elements that require
8 coordination between producer responsibility organizations through a coordinating body.

9 (7) It is the responsibility of a producer responsibility organization to ensure that each
10 member of its organization complies with subsection (3) of this section. The organization
11 shall notify the department within 30 days of:

12 (a) The end of a six-month period in which the organization unsuccessfully attempted to
13 obtain fees or records or information from a producer under subsection (3) of this section;
14 or

15 (b) The date a producer member leaves the organization for any reason.

16 (8) A producer responsibility organization may not register a producer as a member of
17 the organization if the producer sells, offers to sell or distributes covered products in this
18 state that make deceptive or misleading claims about the recyclability of the product as de-
19 scribed in section 28 of this 2021 Act.

20 **SECTION 5. Exemptions.** (1) A small producer is exempt from the requirement to be a
21 member of a producer responsibility organization under section 4 of this 2021 Act.

22 (2) The Environmental Quality Commission may adopt rules to exempt producers that
23 do not exceed a minimum market share of covered products in this state from the require-
24 ments of section 4 of this 2021 Act.

25 **SECTION 6. Producer responsibility program plan.** (1) A producer responsibility organ-
26 ization shall submit to the Department of Environmental Quality, in a form and manner
27 prescribed by the department, a plan for the development and implementation of a producer
28 responsibility program.

29 (2) Using objective and measurable criteria whenever possible, a producer responsibility
30 program plan must:

31 (a) Describe how the producer responsibility organization will manage and administer a
32 producer responsibility program to meet the organization's obligations under sections 2 to
33 36 of this 2021 Act, including a description of how the organization will:

34 (A) Support the collection and recycling of covered products that are included on the
35 uniform statewide collection list established under section 19 of this 2021 Act or as necessary
36 to meet the statewide plastic packaging recovery goal established under section 20 of this
37 2021 Act.

38 (B) Provide for the collection of covered products identified by the Environmental Quality
39 Commission under section 19 (1)(b) of this 2021 Act and meet convenience and performance
40 standards for those covered products.

41 (C) Maximize the use of existing infrastructure.

42 (D) Ensure the safe and secure handling and disposition of covered products and other
43 materials collected with those covered products.

44 (E) Establish, calculate and charge base fees and provide incentives as described in sec-
45 tion 9 of this 2021 Act.

1 (F) Encourage producers to design products that are beneficial to the environment
2 through a graduated fee structure.

3 (G) Encourage continual improvements in environmental design through fee incentives.

4 (H) Ensure that materials are managed and disposed of consistent with the goals and
5 practices required by sections 2 to 36 of this 2021 Act.

6 (I) Ensure that covered products collected for recycling will be transferred to responsible
7 end markets, including:

8 (i) The type and general locations of end markets that may use the material collected
9 from covered products in the manufacture of new products;

10 (ii) How the organization will follow the hierarchy of materials management options de-
11 scribed in ORS 459.015 (2);

12 (iii) How the organization will ensure that environmentally protective management is
13 maintained through to final disposition of the covered product;

14 (iv) Arrangements the producer responsibility organization has made with processors to
15 ensure that materials are recycled at a responsible end market, including any investment
16 intended to be made to support processors; and

17 (v) For any material that will be marketed for use through a method other than me-
18chanical recycling, an analysis of the emissions impacts for the proposed method compared
19 to the emissions impacts of mechanical recycling or the emissions impacts of disposal as
20 solid waste.

21 (J) Provide public outreach and education, including:

22 (i) A communications program for responding to questions; and

23 (ii) Outreach to local governments to ensure information is accurate and consistent
24 across the state.

25 (K) Take actions to address the findings of any report submitted under section 22 of this
26 2021 Act since the organization's last plan or plan amendment was approved and implement
27 recommendations included in the report.

28 (L) Implement improvements identified by any study conducted under section 13 of this
29 2021 Act since the organization's last plan or plan amendment was approved.

30 (b) Identify and provide contact information for the producer responsibility organization
31 and each producer registered with the proposed program.

32 (c) Describe the structure of the producer responsibility organization, including the
33 management structure and roles and functions of committees.

34 (d) Describe how the producer responsibility organization will communicate and coordi-
35nate with the department, local governments, recycling collection service providers,
36 processors and any other producer responsibility organizations and the topics of communi-
37 cation or coordination.

38 (e) Include projections on recovery rates for plastic packaging.

39 (f) Describe any efforts the producer responsibility organization will make to support
40 collection, processing or responsible recycling of specifically identified materials, including:

41 (A) Any efforts to support or provide depot or mobile collection of specifically identified
42 materials;

43 (B) Any efforts to use education and promotion to encourage proper participation in on-
44 route collection of specifically identified materials;

45 (C) Any investments to support the successful processing of specifically identified mate-

1 rials;

2 (D) Any efforts to develop or support responsible end markets for specifically identified
3 materials; and

4 (E) Any other efforts to ensure successful and responsible recycling of specifically iden-
5 tified materials.

6 (g) Describe the fee structure of the producer responsibility organization, including a
7 schedule of the fees actually charged to members.

8 (h) Demonstrate that the fees collected by the producer responsibility organization will
9 provide adequate revenue to fund all costs associated with the producer responsibility pro-
10 gram, including but not limited to costs for:

11 (A) The fees established under sections 23 and 24 of this 2021 Act;

12 (B) The collection, processing, transportation and disposal of materials;

13 (C) The development of educational resources under section 12 of this 2021 Act;

14 (D) Litter prevention programs under section 14 of this 2021 Act; and

15 (E) Reimbursements to local governments under section 11 of this 2021 Act.

16 (i) Include a process for notifying the department and producers of potential noncompli-
17 ance with the requirements of sections 2 to 36 of this 2021 Act by a producer or producer
18 responsibility organization.

19 (j) Describe reserve funds or other contingency plans for responding to changes in mar-
20 kets or other circumstances that could affect the effectiveness of the program.

21 (k) Include a closure plan to settle the affairs of the producer responsibility organization
22 that ensures that producers will continue to meet their obligations in the event of dissolution
23 of the organization.

24 (L) Include any other information required by the department to determine that a pro-
25 ducer responsibility organization is capable of meeting its obligations under sections 2 to 36
26 of this 2021 Act.

27 **SECTION 7. Approval by department.** (1)(a) The Department of Environmental Quality
28 shall approve, approve with modifications or reject a plan submitted under section 6 this 2021
29 Act or an amendment to a plan submitted under section 8 of this 2021 Act no later than 120
30 days after the date on which the department receives the plan or plan amendment from the
31 producer responsibility organization. If the department rejects the plan or plan amendment,
32 the department shall provide in writing the reason for the rejection.

33 (b) If the department rejects a plan or plan amendment under paragraph (a) of this sub-
34 section, the producer responsibility organization must submit a revised plan or revised plan
35 amendment to the department no later than 60 days from the date of the rejection. The de-
36 partment shall either approve, approve with modifications or reject the revised plan or re-
37 vised plan amendment no later than 90 days after receiving a revised plan or revised plan
38 amendment. If the department rejects the revised plan or revised plan amendment, the de-
39 partment shall provide in writing the reason for the rejection.

40 (c) If the department rejects a revised plan or revised plan amendment submitted under
41 paragraph (b) of this subsection, the department may:

42 (A) Require the producer responsibility organization to submit a new revised plan or re-
43 vised plan amendment in the manner described in paragraph (b) of this subsection; or

44 (B) Impose a penalty under ORS 459.995 on the producer responsibility organization.

45 (2) Before approving, approving with modifications or rejecting a plan or plan amendment

1 under this section, the department shall solicit feedback on the plan or plan amendment
2 from the Oregon Recycling System Advisory Council established under section 15 of this 2021
3 Act. The department must make the plan or plan amendment available for public comment
4 for a period of no less than 30 days before approving, approving with modifications or re-
5 jecting the plan or plan amendment.

6 (3) A plan approved by the department under this section is valid for four years. The
7 department's rejection of a plan or plan amendment submitted for approval under this sec-
8 tion does not relieve the producer responsibility organization from continuing to implement
9 the producer responsibility program in compliance with the approved plan pending a final
10 action by the department on the plan or plan amendment.

11 (4) No less than 180 days before a plan approved under this section expires, a producer
12 responsibility organization shall submit a plan to be approved for an additional four years.
13 A plan submitted for approval under this subsection must satisfy the requirements of section
14 6 of this 2021 Act and describe any substantive changes from the previously approved plan.

15 **SECTION 8. Plan amendments.** (1) A producer responsibility organization shall submit
16 an amendment to a plan:

17 (a) When required to do so under section 20 of this 2021 Act;

18 (b) When required to do so under section 22 of this 2021 Act; or

19 (c) When required to do so by rules adopted by the Environmental Quality Commission.

20 (2) Not less than once per month, a producer responsibility organization shall provide
21 written notice to the Department of Environmental Quality of any changes made during the
22 previous month to a plan approved by the department under section 7 of this 2021 Act that
23 are changes for which an amendment is not required under subsection (1) of this section.
24 Changes subject to notice under this subsection shall be described by the commission by rule.

25 (3) The department shall review and approve any change for which notice is given under
26 subsection (2) of this section if the department determines that the change has no material
27 impact on the implementation and administration of a plan that has been previously ap-
28 proved by the department under section 7 of this 2021 Act.

29 **SECTION 9. Fees charged by producer responsibility organization.** (1) A producer re-
30 sponsibility organization shall establish a schedule of fees to be paid by members of the or-
31 ganization. The fees established pursuant to this section must be sufficient to meet the
32 financial obligations of the organization under sections 2 to 36 of this 2021 Act.

33 (2) A schedule established under this section must establish a base fee rate for all cov-
34 ered products sold or distributed in this state. The base fee paid by each producer member
35 shall be calculated by multiplying the base fee rate by the total mass of covered products sold
36 or distributed by the producer in this state.

37 (3) In addition to the base fee described in subsection (2) of this section, a producer re-
38 sponsibility organization shall charge additional base fees for covered products sold or dis-
39 tributed in this state that:

40 (a) Are recoverable but have higher costs associated with their recovery; or

41 (b) Are not recoverable.

42 (4) In addition to the base fees described in subsections (2) and (3) of this section, a
43 producer responsibility organization's fee schedule must incentivize producers to continually
44 reduce the environmental and human health impacts of covered products by offering fee ad-
45 justments to producers that make or have made changes to the ways in which they produce,

1 use and market covered products. Fee adjustments developed under this subsection must
 2 include bonuses for covered products with a lower environmental impact and penalties for
 3 covered products with a higher environmental impact. In establishing the criteria for a fee
 4 adjustment, a producer responsibility organization must consider factors that include, but
 5 are not limited to:

6 (a) The post-consumer content of the material;

7 (b) The product-to-package ratio;

8 (c) The producer's choice of material; and

9 (d) Life cycle environmental impacts, as demonstrated by an evaluation performed in
 10 accordance with section 25 of this 2021 Act.

11 (5) Notwithstanding subsections (2) to (4) of this section, a producer responsibility or-
 12 ganization may propose in a plan or plan amendment an alternative fee structure. The De-
 13 partment of Environmental Quality shall approve an alternative fee structure if the
 14 department determines that the structure:

15 (a) Satisfies the requirements of subsection (1) of this section; and

16 (b) Provides incentives to members to change the way the members produce, use and
 17 market materials in order to reduce environmental impacts.

18 (6)(a) Notwithstanding subsections (2) to (4) of this section, a producer responsibility or-
 19 ganization may establish uniform fees for members that sell or distribute a disproportion-
 20 ately small share of covered products in this state, provided that doing so is not a
 21 significantly less effective means of reducing the environmental and social costs of producing
 22 and managing covered products.

23 (b) The Environmental Quality Commission may establish by rule standards for estab-
 24 lishing fees under this subsection.

25 **SECTION 10. Annual report.** (1) No later than July 1 of each year, a producer responsi-
 26 bility organization must submit to the Department of Environmental Quality an annual re-
 27 port on the development, implementation and operation of the producer responsibility
 28 program. The annual report must:

29 (a) Cover the prior calendar year;

30 (b) Present information in a manner that can be understood by the general public; and

31 (c) Be otherwise prepared in the form and manner prescribed by the department.

32 (2) The annual report must include:

33 (a) A list of the producers that participated in the producer responsibility program;

34 (b) A list of any producers found to be out of compliance with the producer responsibility
 35 program plan and steps taken to bring those producers into compliance;

36 (c) The total amount, by weight and type of material, of covered products sold or dis-
 37 tributed in this state by participating producers in the prior calendar year;

38 (d) A description of the producer responsibility organization's efforts to ensure that the
 39 collected covered products were responsibly recycled and delivered to responsible end mar-
 40 kets;

41 (e) A summary of payments requested by local governments and paid by the producer
 42 responsibility organization under section 11 of this 2021 Act;

43 (f) A summary of payments made to satisfy the producer responsibility organization's
 44 obligations under sections 2 to 36 of this 2021 Act;

45 (g) A summary of the financial status of the producer responsibility organization, in-

1 **cluding annual expenditures, revenues and assets;**

2 **(h) The fee schedule described in section 9 of this 2021 Act and, for the reporting year,**
3 **the fees collected pursuant to that schedule;**

4 **(i) A description of activities undertaken by the producer responsibility organization that**
5 **relate to the uniform statewide collection list established under section 19 of this 2021 Act;**

6 **(j) A summary of efforts taken by the producer responsibility organization to meet the**
7 **statewide plastic packaging recovery goal established under section 20 of this 2021 Act and**
8 **efforts planned to maintain performance in meeting the goal or, if the goal has not been met,**
9 **efforts planned to meet the goal;**

10 **(k) The results, with an emphasis on equity issues, including but not limited to those**
11 **established under section 22 of this 2021 Act, of any in-person site inspections, material**
12 **tracking or other audits conducted during the reporting year, including whether any major**
13 **safety or environmental management practices were not properly followed and, if so, the**
14 **corrective actions taken;**

15 **(L) Recommendations for any changes to the producer responsibility organization's plan**
16 **to improve recovery and recycling;**

17 **(m) An evaluation of the adequacy of end markets;**

18 **(n) A summary of actions actually taken or planned by the organization to improve end**
19 **markets, processing infrastructure or the resiliency of the producer responsibility program;**

20 **(o) A summary of efforts taken to implement recommendations to improve equity in the**
21 **recycling system identified in a report under section 22 of this 2021 Act;**

22 **(p) The number of producers that received a fee incentive described in section 9 of this**
23 **2021 Act and the amount of covered products, by material and format, for which producers**
24 **received an incentive;**

25 **(q) An evaluation of the producer responsibility organization's compliance with sections**
26 **2 to 36 of this 2021 Act and, if necessary, actions that will be taken to achieve compliance;**

27 **(r) A report by an independent certified public accountant, retained by the producer re-**
28 **sponsibility organization at the organization's expense, on the accountant's audit of the**
29 **organization's financial statements;**

30 **(s) The results of any non-financial audits or assessments measuring performance or**
31 **outcomes; and**

32 **(t) Any other information required by the department.**

33 **(3)(a) A producer responsibility organization may include in a report submitted under this**
34 **section a confidential addendum containing information on the market share of individual**
35 **members. Information included in the confidential addendum is not subject to public dis-**
36 **closure under ORS 192.311 to 192.478, except that the department may disclose summarized**
37 **information or aggregated data if the information or data do not directly or indirectly iden-**
38 **tify the confidential information.**

39 **(b) If a producer responsibility organization includes market share information in a con-**
40 **fidential addendum, the report must summarize the information in a manner that can be**
41 **understood by the general public.**

42 **(4) The department shall review reports submitted under this section and solicit feedback**
43 **on each report from the Oregon Recycling System Advisory Council established under sec-**
44 **tion 15 of this 2021 Act. The department shall make each report available for public comment**
45 **for a period of no less than 30 days. The department shall submit the comments of the de-**

1 **partment, the council and the public to the producer responsibility organization.**

2 **(5) Within 60 days of receiving the comments under subsection (4) of this section, a**
 3 **producer responsibility organization shall submit a revised report to the department. If**
 4 **comments made by the department identify areas in which the producer responsibility or-**
 5 **ganization is not in compliance with sections 2 to 36 of this 2021 Act, the revised report**
 6 **must:**

7 **(a) Explain how the organization analyzed areas in which the organization was not in**
 8 **compliance with sections 2 to 36 of this 2021 Act;**

9 **(b) Identify the causes of the organization’s failure to comply with sections 2 to 36 of this**
 10 **2021 Act; and**

11 **(c) Explain how adjustments to the producer responsibility program will address areas**
 12 **of noncompliance.**

13 **(6) Each calendar quarter, a producer responsibility organization shall provide a materi-**
 14 **als disposition report to the department describing the final disposition of all materials for**
 15 **which the organization is responsible. The report required under this subsection must in-**
 16 **clude:**

17 **(a) The final end market of the materials;**

18 **(b) The location of all facilities used to process the materials; and**

19 **(c) The final disposition of all materials, including materials that were not used by the**
 20 **end market.**

21 **SECTION 11. Reimbursements to local governments. (1) A producer responsibility or-**
 22 **ganization shall, upon request, reimburse the reasonable expenses of a local government or**
 23 **the local government’s agent for any of the following costs:**

24 **(a) The cost of transferring covered products from an aggregation point to a processing**
 25 **facility;**

26 **(b) Cost of anti-contamination educational programming for residential and commercial**
 27 **customers required by section 21 of this 2021 Act;**

28 **(c) The cost of providing recycling collection services for covered products at multifamily**
 29 **properties that currently lack such services;**

30 **(d) Costs associated with the expansion and provision of recycling collection services for**
 31 **covered products; and**

32 **(e) Costs associated with other recycling system improvements for covered products as**
 33 **determined by the Environmental Quality Commission by rule.**

34 **(2) A local government or local government’s agent requesting reimbursement under this**
 35 **section shall submit an accounting of its costs to a producer responsibility organization.**

36 **(3) A producer responsibility organization shall remit payment for expenses under this**
 37 **section to a local government, or the local government’s agent.**

38 **(4) The Department of Environmental Quality may audit the cost accounting and re-**
 39 **imbursement request records of a producer responsibility organization, a local government**
 40 **or the local government’s agent that receives payment under this section.**

41 **(5)(a) The commission shall establish by rule reasonable expenses for purposes of this**
 42 **section.**

43 **(b) If a dispute arises between a local government or the local government’s agent and**
 44 **a producer responsibility organization regarding the amount of reasonable expenses allowed**
 45 **under this section, either party may request from the Department of Environmental Quality,**

1 in the form and manner prescribed by the department, an order determining the amount of
 2 reasonable expenses. An order issued under this paragraph may be appealed by either party
 3 in accordance with the provisions of ORS 183.484 pertaining to review of an order in other
 4 than a contested case.

5 **SECTION 12. Development of educational resources.** (1) A producer responsibility organ-
 6 ization shall, in consultation with local governments, develop educational resources to pro-
 7 mote the uniform statewide collection list established under section 19 of this 2021 Act.
 8 Resources developed under this section must include, but need not be limited to:

9 (a) A description of materials identified for recycling by the producer responsibility pro-
 10 gram;

11 (b) Techniques to properly prepare materials for recycling;

12 (c) Education on the importance of not placing contaminants in commingled recycling
 13 systems; and

14 (d) Container signs or decals.

15 (2) Educational resources developed under this section must be:

16 (a) Culturally responsive to diverse audiences across this state, including people who
 17 speak languages other than English and people with disabilities;

18 (b) Printed or produced in languages other than English; and

19 (c) Widely available.

20 (3) A producer responsibility organization shall make the educational resources developed
 21 under this section available to local governments in a form that allows each local govern-
 22 ment to customize the resources to reflect local conditions.

23 (4) When consulting with a producer responsibility organization under subsection (1) of
 24 this section, a local government must take responsibility to ensure that the educational re-
 25 sources meet the needs of diverse audiences within the local government’s community.

26 (5) A local government shall utilize and distribute educational resources developed under
 27 this section. A local government may incorporate the educational resources developed under
 28 this section into an existing education program developed to satisfy the requirements of ORS
 29 459A.007.

30 (6)(a) Except as provided in paragraph (b) of this subsection, educational resources de-
 31 veloped under this section must be reviewed by the Oregon Recycling System Advisory
 32 Council established under section 15 of this 2021 Act and approved by the Department of
 33 Environmental Quality before public distribution.

34 (b) Changes or alterations to educational resources previously approved by the depart-
 35 ment that do not materially affect the substance of the information conveyed do not require
 36 review or approval under this subsection.

37 **SECTION 13. Other duties of producer responsibility organization.** (1)(a) A producer re-
 38 sponsibility organization, in consultation with the Department of Environmental Quality and
 39 the Oregon Recycling System Advisory Council established under section 15 of this 2021 Act,
 40 shall study challenges facing residents of multifamily housing and make recommendations
 41 for improvements to allow for effective and equitable recycling opportunities for residents
 42 of multifamily housing. A study conducted under this paragraph must include an evaluation
 43 of the placement of and quality of space provided for recycling containers and recommen-
 44 dations for improving spaces that are determined to be inadequate.

45 (b) A producer responsibility organization shall provide the results of the study con-

1 ducted under paragraph (a) of this subsection in a report to the department. The department
 2 shall review reports submitted under this paragraph and solicit feedback on each report from
 3 the council. The department must make each report available for public comment for a pe-
 4 riod of no less than 30 days before approving, approving with modifications or rejecting the
 5 report.

6 (c) A producer responsibility organization must update the study and recommendations
 7 required under paragraph (a) of this subsection no less than once every five years.

8 (d) No later than one year after the date on which the department approves a report
 9 submitted under paragraph (b) of this subsection, the producer responsibility organization
 10 must submit a plan amendment describing how the producer responsibility organization will
 11 make improvements to recycling opportunities for residents of multifamily housing to ad-
 12 dress the findings and recommendations of the report.

13 (2) A producer responsibility organization must provide for the collection and responsible
 14 recycling of covered products identified by the Environmental Quality Commission under
 15 section 19 (1)(b) of this 2021 Act by:

16 (a) Establishing and operating drop off centers for the covered product;

17 (b) Establishing and operating collection events for the covered product;

18 (c) Contracting with existing recycling depots or drop-off centers to provide for the col-
 19 lection of the covered product; or

20 (d) Making other arrangements for collection of the covered product as described in a
 21 producer responsibility program plan approved by the department under section 7 of this 2021
 22 Act.

23 (3) A producer responsibility organization shall ensure that covered products collected in
 24 this state for the purpose of recovery will be:

25 (a) Delivered to responsible end markets;

26 (b) Managed according to the hierarchy of materials management options under ORS
 27 459.015 (2); and

28 (c) Managed in an environmentally protective way through to final disposition.

29 (4) A producer responsibility organization may not take physical possession of covered
 30 products from a processor for transport to a responsible end market without the consent
 31 of the processor.

32 **SECTION 14. Litter program.** (1) A producer responsibility organization shall establish a
 33 program to prevent and control litter. A producer responsibility organization's litter pre-
 34 vention program shall carry out litter prevention and cleanup activities or provide grants to
 35 eligible entities to carryout litter prevention or control. Entities eligible for a grant include,
 36 but are not limited to:

37 (a) Public bodies as defined in ORS 174.109;

38 (b) Tribal governments; and

39 (c) Nonprofit organizations.

40 (2) A producer responsibility organization must consider the needs of economically dis-
 41 tressed or underserved communities when providing grants to an eligible entity.

42
 43 (Oregon Recycling System Advisory Council)

44
 45 **SECTION 15. Oregon Recycling System Advisory Council established.** (1) The Oregon

1 **Recycling System Advisory Council is established.**

2 **(2)(a) The council consists of 13 members appointed by the Governor as follows:**

3 **(A) Four representatives of local governments;**

4 **(B) Two representatives of community-based organizations representing the interests of**
 5 **historically underserved groups;**

6 **(C) One owner or operator of a small business that is not in the recycling industry;**

7 **(D) Two representatives of environmental nonprofit organizations; and**

8 **(E) Four representatives of the recycling industry, including collectors, processors or**
 9 **material end users.**

10 **(b) The Governor may appoint a representative of a producer responsibility organization**
 11 **to serve as a member described in paragraph (a)(E) of this subsection.**

12 **(c) The Governor shall appoint members that reflect the geographic diversity of this**
 13 **state and the interests of both large and small communities.**

14 **(3)(a) The term of office of each member of the council is three years, but a member**
 15 **serves at the pleasure of the Governor.**

16 **(b) Before the expiration of the term of a member, the Governor shall appoint a succes-**
 17 **sor whose term begins on July 1 following the appointment. A member is eligible for reap-**
 18 **pointment.**

19 **(c) If there is a vacancy for any cause, the Governor shall make an appointment to be-**
 20 **come immediately effective for the unexpired term.**

21 **(4) A majority of the members of the council constitutes a quorum.**

22 **(5) The council shall elect one of its members to serve as chairperson and another to**
 23 **serve as vice chairperson, for the terms and with the duties and powers necessary for the**
 24 **performance of the functions of such offices as the council determines. The chairperson and**
 25 **vice chairperson may not both be members appointed under the same subparagraph of sub-**
 26 **section (2)(a)(A) to (E) of this section.**

27 **(6) The council shall meet at least once every three months at times and places specified**
 28 **by the chairperson. The council also may meet at other times and places specified by the call**
 29 **of the chairperson or of a majority of the members of the council, as necessary, to carry out**
 30 **the duties of the council.**

31 **(7) The Department of Environmental Quality shall provide administrative and staff**
 32 **support and facilities as necessary for the council to carry out the duties of the council.**

33 **(8) A member of the council is entitled to compensation and expenses in the manner and**
 34 **amounts provided for in ORS 292.495. Claims for compensation and expenses incurred in**
 35 **performing functions of the council shall be paid out of funds appropriated to the department**
 36 **for that purpose.**

37 **(9) The council may adopt rules necessary for the operation of the council.**

38 **SECTION 16. Duties of council. (1) The Oregon Recycling System Advisory Council es-**
 39 **tablished under section 15 of this 2021 Act shall:**

40 **(a) Review activities that affect Oregon's recycling system;**

41 **(b) Advise the Department of Environmental Quality and producer responsibility organ-**
 42 **izations on issues affecting Oregon's recycling system;**

43 **(c) Review producer responsibility program plans submitted under section 6 of this 2021**
 44 **Act, plan amendments submitted under section 8 of this 2021 Act and program reports sub-**
 45 **mitted under section 10 of this 2021 Act; and**

1 (d) Make written recommendations to the department and producer responsibility or-
2 ganizations on matters that the council determines are beneficial to the public interest, in-
3 cluding:

4 (A) Matters related to producer responsibility program plans created to satisfy the re-
5 quirements of section 6 of this 2021 Act, program plan audits and reports required by the
6 plans, including:

7 (i) Producer fee structures described in section 9 of this 2021 Act;

8 (ii) Depot or mobile collection events for recyclable items; and

9 (iii) Other aspects of a producer responsibility program intended to improve access to
10 recycling, including access for residents of multifamily housing.

11 (B) The uniform statewide collection list established under section 19 of this 2021 Act.

12 (C) The manner in which producer responsibility organization fees will be distributed to
13 local governments under section 11 of this 2021 Act, including:

14 (i) Review of statewide transportation, reload reimbursement and other formulaic ele-
15 ments; and

16 (ii) Priorities for system funding where discretion is provided in statute or in rules
17 adopted by the Environmental Quality Commission.

18 (D) Statewide educational resources and campaigns.

19 (E) Compliance with the labeling requirements of section 28 of this 2021 Act.

20 (2) The council may only adopt recommendations upon a vote of a majority of the mem-
21 bers of the council.

22 (3) No later than September 15 of each even-numbered year, the council shall submit to
23 the appropriate interim committees of the Legislative Assembly, in the manner provided by
24 ORS 192.245, a report that describes the recommendations of the council.

25
26 (Responsibilities of Local Governments)
27

28 SECTION 17. Prohibition on delivery of commingled recyclables to certain facilities. A
29 local government or the local government's agent may not deliver commingled recyclables
30 collected to satisfy an obligation to provide the opportunity to recycle as required by ORS
31 459A.005 and 459A.007 to a commingled recycling processing facility unless:

32 (1) At the time the local government or the local government's agent delivered or con-
33 tracted to deliver or transport materials to the facility:

34 (a) The processor held a valid permit issued under section 29 of this 2021 Act;

35 (b) The processor held a valid certificate issued under section 30 of this 2021 Act; or

36 (c) The processor certifies that it meets the requirements of section 29 or 30 of this 2021
37 Act, even though the processor does not hold a permit or certificate.

38 (2) The processor ensures the health, safety and wellness of workers in its facilities, re-
39 gardless of whether the workers are employees, independent contractors or employees of
40 another business.

41 (3) The processor provides workers with a living wage and supportive benefits.

42 (4) Within six months after the Department of Environmental Quality completes a report
43 under section 22 of this 2021 Act, the processor has taken steps to implement any recom-
44 mendations of the report related to providing opportunities in the recycling industry for
45 women and minority individuals as defined in ORS 200.005 and the removal of barriers to

1 company ownership for women and minority individuals.

2 **SECTION 18. Other duties of local governments.** A local government providing the op-
3 portunity to recycle, as defined in ORS 459A.005, must:

4 (1) For the collection at multifamily properties of materials identified on the uniform
5 statewide collection list established under section 19 of this 2021 Act:

6 (a) Ensure adequate space for collection; and

7 (b) Ensure that container placement is accessible to residents, including children and
8 individuals who use a wheelchair.

9 (2) Ensure that roll carts, bins and containers that are manufactured from at least 10
10 percent post-consumer recyclable material and are certified by an independent verification
11 standard, such as the Postconsumer Resin Certification Program established by the Associ-
12 ation of Plastics Recyclers, are used to provide collection services.

13
14 (Responsibilities of the Environmental Quality Commission and the
15 Department of Environmental Quality)
16

17 **SECTION 19. Uniform statewide collection list and specifically identified materials.** (1)
18 The Environmental Quality Commission, in consultation with producer responsibility organ-
19 izations and the Oregon Recycling System Advisory Council established under section 15 of
20 this 2021 Act, shall by rule identify materials that are suitable for recycling collection in this
21 state and the methods for collection of those materials. Rules adopted under this subsection
22 must distinguish between:

23 (a) Materials collected to provide the opportunity to recycle as defined ORS 459A.005; and

24 (b) Covered products of which a producer must provide for the collection.

25 (2) When identifying materials and collection methods under subsection (1)(a) of this
26 section, the commission may allow for the same material to be collected via on-route col-
27 lection or at recycling depots in different geographic areas.

28 (3) In determining whether a material should be included in a commingled recycling
29 program, collected separately, collected on-route, collected at a recycling depot or collected
30 by a producer responsibility organization, the commission shall consider:

31 (a) The stability, maturity, accessibility and viability of responsible end markets;

32 (b) Environmental health and safety considerations;

33 (c) The anticipated yield loss for the material during the recycling process;

34 (d) The material's compatibility with existing recycling infrastructure;

35 (e) The amount of the material available;

36 (f) The practicalities of sorting and storing the material;

37 (g) Contamination;

38 (h) The ability for waste generators to easily identify and properly prepare the material;

39 (i) Economic factors;

40 (j) Environmental factors from a life cycle perspective; and

41 (k) The policy expressed in ORS 459.015.

42 (4) The Department of Environmental Quality shall establish a uniform statewide col-
43 lection list. The list established under this subsection must include:

44 (a) The materials identified by the commission under subsection (1)(a) of this section and
45 the collection methods for those materials; and

1 (b) Covered products and the collection methods for those covered products, if any, pro-
 2 posed for recycling collection by a producer responsibility organization in a producer re-
 3 sponsibility program plan or plan amendment and approved by the department under section
 4 7 of this 2021 Act.

5 (5) Except as provided in subsection (6) of this section, a material may not be collected
 6 as part of a commingled recycling program unless the material is identified for collection as
 7 part of a commingled recycling program on the uniform statewide collection list established
 8 by the department under subsection (4) of this section.

9 (6) A material that is not identified for collection as part of a commingled recycling
 10 program on the uniform statewide collection list may be collected as part of a commingled
 11 recycling program if:

- 12 (a) The material is collected as part of a trial or research program;
- 13 (b) The trial or research program is of limited duration; and
- 14 (c) The trial or research program is conducted in a limited area.

15 (7) The commission shall establish by rule collection targets, convenience standards and
 16 performance standards for producer responsibility organizations that collect covered pro-
 17 ducts identified by the commission under subsection (1)(b) of this section.

18 (8) The department, in consultation with producer responsibility organizations and the
 19 council, shall establish and maintain a list of specifically identified materials.

20 (9) In determining whether a material, or a covered product, is a specifically identified
 21 material, the department shall consider criteria that include, but need not be limited to:

- 22 (a) Whether processing equipment improvements are needed to sort the material;
- 23 (b) The availability of viable end markets for the material;
- 24 (c) The market value of the material; and

25 (d) Whether the inclusion of the material or covered product in recycling collection pro-
 26 grams would cause an increase in costs to ratepayers.

27 **SECTION 20. Plastic packaging recovery rate.** (1)(a) It is the goal of the State of Oregon
 28 that the recovery rate for plastic packaging be at least _____ percent for calendar year
 29 _____ and each subsequent year.

30 (b) The recovery rate determined under this subsection is separate from the recovery
 31 rates calculated under ORS 459A.010, and the recycling rate calculated under ORS 459A.657.

32 (2) The Department of Environmental Quality shall annually determine whether the
 33 statewide plastic packaging recovery goal established under subsection (1) of this section has
 34 been met in the previous calendar year. The department may require a producer responsi-
 35 bility organization to submit aggregated information necessary for the department to make
 36 the determination under this subsection.

37 (3) If the department determines that the statewide plastic packaging recovery goal for
 38 the previous calendar year has not been met, each producer responsibility organization shall,
 39 in the manner provided in section 8 of this 2021 Act, amend an existing producer responsi-
 40 bility program plan or submit a new producer responsibility program plan to address the
 41 failure to meet the statewide plastic packaging recovery goal.

42 **SECTION 21. Contamination reduction.** (1) The Department of Environmental Quality
 43 shall:

- 44 (a)(A) Establish statewide recycling contamination reduction goals; and
- 45 (B) In coordination with local governments, establish local recycling contamination re-

1 **duction goals that are consistent with the statewide recycling contamination reduction goals.**

2 **(b) Evaluate the relative cost-effectiveness of different educational programs and other**
 3 **methods for reducing contamination.**

4 **(c) Establish and maintain a list of approved contamination reduction program elements,**
 5 **including:**

6 **(A) Customer-facing contamination reduction materials and methods; and**

7 **(B) Standards for providing feedback to generators that contribute to contamination.**

8 **(2) A local government described in ORS 459A.007 (3) or a person that provides for the**
 9 **collection of source separated recyclables pursuant to ORS 459.250 or 459A.005 shall establish**
 10 **a program to reduce contamination that:**

11 **(a) Uses materials or methods approved by the department under subsection (1)(c)(A) of**
 12 **this section; or**

13 **(b) Uses materials or methods that are at least as effective as materials or methods ap-**
 14 **proved by the department under subsection (1)(c)(A) of this section.**

15 **(3) The Environmental Quality Commission shall establish by rule enforcement standards**
 16 **for a contamination reduction program developed under subsection (2) of this section. Rules**
 17 **adopted under this subsection must:**

18 **(a) Limit enforcement to generators that are significant and repeated sources of con-**
 19 **tamination;**

20 **(b) Require a local government or disposal site operator to provide feedback to genera-**
 21 **tors consistent with the standards described in subsection (1)(c)(B) of this section before**
 22 **taking an enforcement action against a generator; and**

23 **(c) Require that any enforcement action against a generator take into account the indi-**
 24 **vidual circumstances of the generator, including language barriers and income.**

25 **(4) If a contamination reduction program established under subsection (2) of this section**
 26 **does not result in a reduction of contamination that equals or exceeds the local recycling**
 27 **contamination reduction goals established under subsection (1)(a)(B) of this section, the local**
 28 **government or disposal site operator shall introduce additional contamination reduction**
 29 **program elements until the program meets the local recycling contamination reduction**
 30 **goals.**

31 **SECTION 22. Equity study. (1) The Department of Environmental Quality, in consultation**
 32 **with local governments, the Oregon Recycling System Advisory Council established under**
 33 **section 15 of this 2021 Act, and other persons interested in Oregon's recycling system, shall**
 34 **conduct a study of social equity in Oregon's recycling system and make recommendations**
 35 **for improvement. The study must include, but need not be limited to:**

36 **(a) An evaluation of commingled recycling processing facility worker conditions, wages**
 37 **and benefits;**

38 **(b) The availability of opportunities in the recycling industry for women and minority**
 39 **individuals as defined in ORS 200.005 and the barriers to company ownership in the recycling**
 40 **industry for women and minority individuals;**

41 **(c) The sufficiency of local government requirements related to multifamily recycling**
 42 **services and their implementation; and**

43 **(d) The sufficiency of recycling education programs relative to desired equity outcomes.**

44 **(2) A business operating within the recycling system in this state shall, upon request,**
 45 **furnish the department with information necessary for the department to meet the require-**

1 ments of subsection (1)(a) and (b) of this section.

2 (3) The department shall report the results of the study and recommendations required
 3 under this section to the Environmental Quality Commission. The commission shall approve
 4 or reject the recommendations of the department and provide a copy of the report and ap-
 5 proved recommendations to each producer responsibility organization.

6 (4) The department shall revise the study and recommendations and report once every
 7 five years.

8 (5) No later than one year after receiving a report and recommendations from the com-
 9 mission under subsection (3) of this section, a producer responsibility organization shall
 10 submit a plan amendment describing how it will make improvements to the producer re-
 11 sponsibility program plan to address the approved recommendations of the report.

12 **SECTION 23. Fees.** (1) The Department of Environmental Quality shall establish the fol-
 13 lowing fees for the purpose of paying the costs of administering, implementing and enforcing
 14 the provisions of sections 2 to 36 of this 2021 Act related to producer responsibility organ-
 15 izations:

16 (a) A fixed, one-time fee for reviewing a producer responsibility program plan submitted
 17 under section 6 of this 2021 Act.

18 (b) A fixed, one-time fee for reviewing a producer responsibility program plan amendment
 19 under submitted under section 8 of this 2021 Act.

20 (c) An annual fee charged to each producer responsibility organization for the
 21 department’s administrative expenses related to producer responsibility organizations under
 22 sections 2 to 36 of this 2021 Act.

23 (d) A fixed, hourly fee for any other work that the department must do on behalf of a
 24 producer responsibility organization.

25 (2) The fee calculated for each producer responsibility organization under subsection
 26 (1)(c) of this section must be proportionate to the market share of all products that the
 27 producer responsibility organization’s members sell or distribute in Oregon. The department
 28 may make a reasonable estimate of the market share of a producer or producer responsi-
 29 bility organization for any year for which market share information for that producer or
 30 producer responsibility organization has not been provided to the department.

31 (3) The department shall provide notice to a producer responsibility organization no later
 32 than September 1 of each year of the annual fee required under subsection (1)(c) of this
 33 section for the upcoming calendar year. Fees collected by the department under this section
 34 shall be deposited in the State Treasury to the credit of the Producer Responsibility Fund
 35 established under section 26 of this 2021 Act.

36 **SECTION 24. Waste prevention and reuse.** (1) The Department of Environmental Quality
 37 shall establish a program to support waste prevention and the reuse of covered products that
 38 might otherwise become solid waste. The department may enter into intergovernmental
 39 agreements with local governments to establish a waste prevention and reuse program on
 40 behalf of the local government. The department may provide grants or loans to entities that
 41 establish a waste prevention and reuse program. Entities eligible for a grant or loan include,
 42 but are not limited to:

- 43 (a) Public bodies as defined in ORS 174.109;
- 44 (b) Tribal governments;
- 45 (c) Nonprofit organizations; and

1 (d) Private organizations, if the department determines that the funds would be used for
2 the public benefit.

3 (2) In providing grants or loans for a waste prevention and reuse program under this
4 section, the department must consider criteria that include, but are not limited to:

5 (a) The environmental benefits of the program;

6 (b) The human health benefits of the program;

7 (c) The social and economic benefits of the program;

8 (d) The cost-effectiveness of the program; and

9 (e) The needs of economically distressed or underserved communities.

10 (3) In addition to the fees established under section 23 of this 2021 Act, the department
11 shall establish a waste prevention and reuse fee to be paid by producer responsibility organ-
12 izations. The fee established under this subsection must be reasonably calculated to support
13 the waste prevention and reuse programs established under this section. Fees collected un-
14 der this subsection must be deposited in the Waste Prevention and Reuse Fund established
15 under section 27 of this 2021 Act.

16 SECTION 25. Life cycle evaluation. The Environmental Quality Commission shall estab-
17 lish by rule standards for the evaluation and disclosure of the environmental impacts of
18 covered products through the life cycle of the products. Rules adopted under this section
19 must:

20 (1) Establish procedures and requirements to be used by producers when evaluating the
21 life cycle impacts of covered products to obtain an incentive under section 9 of this 2021 Act
22 or when required to do so under subsection (2) of this section.

23 (2) Require large producers to:

24 (a) Perform an evaluation of the life-cycle impacts of covered products sold or distributed
25 in this state;

26 (b) Provide the results of the evaluation to the Department of Environmental Quality; and

27 (c) Make the evaluation available on the website of the producer responsibility organiza-
28 tion of which the large producer is a member.

29 SECTION 26. Producer Responsibility Fund. The Producer Responsibility Fund is estab-
30 lished, separate and distinct from the General Fund. All moneys in the Producer Responsi-
31 bility Fund are continuously appropriated to the Department of Environmental Quality and
32 may be used only to pay the costs of administering, implementing and enforcing sections 2
33 to 36 of this 2021 Act.

34 SECTION 27. Waste Prevention and Reuse Fund. The Waste Prevention and Reuse Fund
35 is established, separate and distinct from the General Fund. All moneys in the Waste Pre-
36 vention and Reuse Fund are continuously appropriated to the Department of Environmental
37 Quality and may be used only for the purposes described in section 24 of this 2021 Act.

38 SECTION 28. Product labeling. (1) As used in this section:

39 (a) "Chasing arrows symbol" means:

40 (A) An equilateral triangle formed by three arrows, curved at their midpoints, depicting
41 a clockwise path, with a short gap separating the apex of each arrow from the base of the
42 adjacent arrow; or

43 (B) A substantially similar symbol.

44 (b) "Resin identification code" means a number that corresponds with a type of plastic
45 resin used to make a plastic product or its packaging.

1 (2)(a) A person may not distribute, sell or offer to sell, including by means of remote sale,
2 any product that makes a deceptive or misleading claim about the recyclability of the prod-
3 uct or the product's packaging in this state.

4 (b) A product that displays a chasing arrows symbol, a chasing arrows symbol sur-
5 rounding a resin identification code or any other symbol or statement indicating the product
6 is recyclable is deemed to be deceptive or misleading unless:

7 (A) The material of the product or its packaging is identified on the uniform statewide
8 collection list established under section 19 of this 2021 Act as a material that is suitable for
9 on-route collection; or

10 (B) The product is labeled in accordance with rules adopted by the Environmental Quality
11 Commission under subsection (3) of this section.

12 (3) The commission shall establish by rule labeling standards for products that make
13 claims about the recyclability of the product or the product's packaging. Labeling standards
14 established under this subsection may require a statement identifying the correct recycling
15 method for the material.

16 (4) A person may not distribute, sell or offer to sell, including by means of remote sale,
17 any product labeled with a word or symbol intended to convey that the product is
18 compostable unless the product is compostable in this state and the label complies with rules
19 adopted by the commission.

20 (5) Rules, or amendments to rules other than minor corrections, adopted by the com-
21 mission under subsection (3) of this section may not become effective until two years after
22 the date on which the rule or amendment is adopted.

23
24 (Commingled Recycling Processing Facilities)

25
26 **SECTION 29. Permit required.** (1) A person may not establish or operate a commingled
27 recycling processing facility unless the person obtains a disposal site permit issued by the
28 Department of Environmental Quality under ORS 459.205.

29 (2) A disposal site permit issued to a commingled recycling processing facility must re-
30 quire the facility to:

31 (a) Sort all materials collected from the public so that materials do not become contam-
32 inants in other waste streams;

33 (b) Market materials to responsible end markets;

34 (c) Manage contaminants to avoid impacts to other waste streams or facilities;

35 (d) Refrain from creating a public nuisance or health hazard or creating air or water
36 pollution or other adverse impact to public health or the environment; and

37 (e) Accurately report outbound contamination levels and the final disposition of materials
38 held by the processor.

39 (3) The Environmental Quality Commission shall prescribe by rule the requirements for
40 a permit issued under this section.

41 **SECTION 30. Certification program.** (1) The Department of Environmental Quality shall
42 establish a program or approve a program established by a third party to certify commingled
43 recycling processing facilities. The department may issue certificates under the program or
44 develop a list of approved contractors to issue certificates.

45 (2) A commingled recycling processing facility certified under this section must satisfy

1 the requirements of section 29 of this 2021 Act.

2 **SECTION 31. Contamination.** (1) The Department of Environmental Quality shall estab-
3 lish forms and procedures for commingled recycling processors and reload facilities to eval-
4 uate and describe levels of inbound contamination.

5 (2) Information described in subsection (1) of this section may be provided to collectors
6 or local governments.

7
8 (Enforcement)

9
10 **SECTION 32.** (1) The Department of Environmental Quality shall have the power to enter
11 upon and inspect, at any reasonable time, any public or private property, premises or place
12 for the purpose of investigating either an actual or suspected violation of sections 2 to 36
13 of this 2021 Act.

14 (2) A producer responsibility organization shall retain all records related to the imple-
15 mentation and administration of a producer responsibility program for not less than three
16 years and make the records available for inspection by the department upon request.

17 (3) In accordance with the applicable provisions of ORS chapter 183 relating to contested
18 case proceedings, the department may issue an order requiring compliance with the pro-
19 visions of sections 2 to 36 of this 2021 Act.

20 (4) The department may issue an order under subsection (3) of this section to suspend
21 or revoke a producer responsibility program plan approved under section 7 of this 2021 Act
22 if the department determines that:

23 (a) A violation or repeated violations of sections 2 to 36 of this 2021 Act present a risk
24 to the environment or public health; or

25 (b) A violation has had a material impact on the implementation and administration of
26 the organization's producer responsibility program plan.

27 (5) The department may bring an action seeking to prohibit the sale of a covered product
28 in this state against any producer that sells, offers to sell or distributes a covered product
29 in this state:

30 (a) In violation of section 4 of this 2021 Act; or

31 (b) In violation of section 28 of this 2021 Act or rules adopted by the Environmental
32 Quality Commission pertaining to claims about the recyclability of a product or its packag-
33 ing.

34 (6)(a) If the department finds that a producer responsibility organization has violated a
35 provision of sections 2 to 36 of this 2021 Act and the violation has had a material impact on
36 the implementation and administration of the organization's producer responsibility program
37 plan approved by the department under section 7 of this 2021 Act, the department may re-
38 voke approval of the plan or plan amendment or require the organization to resubmit a plan
39 or plan amendment.

40 (b) Before taking action under paragraph (a) of this subsection, the department must
41 provide to the producer responsibility organization the department's written findings and
42 provide the organization with an opportunity to respond.

43 (7) Any person with control of materials collected under sections 2 to 36 of this 2021 Act
44 shall retain all records related to the person's responsibilities under sections 2 to 36 of this
45 2021 Act for not less than three years and make the records available for inspection by the

1 department upon request.

2 (8) A person required to retain records under subsection (7) of this section shall make
 3 the records available upon request to a producer responsibility organization, if necessary to
 4 allow the organization to meet its obligations under sections 2 to 36 of this 2021 Act.

5
 6 (Miscellaneous)
 7

8 **SECTION 33. Policy on composting.** (1) It is the policy of the State of Oregon that the
 9 decision to accept any covered printed paper and packaging at a compost facility is the de-
 10 cision of the individual compost facility.

11 (2) The Environmental Quality Commission may adopt rules requiring producers to con-
 12 form to standards for the compostability of products distributed, sold or offered for sale in
 13 this state.

14 **SECTION 34. State procurement assessment.** (1) The Oregon Department of Adminis-
 15 trative Services, in consultation with the Department of Environmental Quality, shall study
 16 and assess state procurement practices as they relate to recycled product, recycled PETE
 17 and recycled materials as those terms are defined in ORS 279A.010. The assessment must
 18 include:

19 (a) An evaluation of procurement practices under ORS chapters 279A and 279B related
 20 to recycled materials, including efficacy and compliance;

21 (b) A quantitative evaluation of the impact and effectiveness of the five percent price
 22 limitation described in ORS 279A.125 (2)(d);

23 (c) A feasibility study of additional opportunities to increase the purchase of products
 24 containing post-consumer recycled content, including but not limited to products containing
 25 post-consumer recycled PETE and other plastics;

26 (d) An evaluation of opportunities for strengthening traceability and verification re-
 27 quirements associated with recycled products or recycled materials, especially recycled
 28 plastic; and

29 (e) Recommendations for legislation.

30 (2) The Oregon Department of Administrative Services shall provide the results of the
 31 assessment in a report to the appropriate interim committees of the Legislative Assembly
 32 in the manner provided under ORS 192.245. The department shall revise the initial assess-
 33 ment completed under this section every five years.

34 **SECTION 35. Antitrust.** The Legislative Assembly declares that the collaboration of pro-
 35 ducers through producer responsibility organizations to develop and implement producer re-
 36 sponsibility program plans is in the best interests of the public. Therefore, the Legislative
 37 Assembly declares its intent that participating in a producer responsibility organization to
 38 implement a producer responsibility program plan as required by sections 2 to 36 of this 2021
 39 Act shall be exempt from state antitrust laws. The Legislative Assembly further declares its
 40 intent to provide immunity for participating in a producer responsibility organization to im-
 41 plement a producer responsibility program plan as required by sections 2 to 36 of this 2021
 42 Act from federal antitrust laws. This section does not authorize any person to engage in
 43 activities or to conspire to engage in activities that constitute per se violations of state or
 44 federal antitrust laws that are not authorized under sections 2 to 36 of this 2021 Act.

45 **SECTION 36. Rules.** The Environmental Quality Commission may adopt rules as neces-

1 sary to implement sections 2 to 36 of this 2021 Act.

2
3 **AMENDMENTS TO STATUTES**
4

5 **SECTION 37.** ORS 459.005 is amended to read:

6 459.005. As used in ORS 459.005 to 459.437, 459.705 to 459.790 and 459A.005 to 459A.665:

7 (1) "Affected person" means a person or entity involved in the solid waste collection service
8 process including but not limited to a recycling collection service, disposal site permittee or owner,
9 city, county and metropolitan service district.

10 (2) "Board of county commissioners" or "board" includes a county court.

11 (3) "Collection service" means a service that provides for collection of solid waste or recyclable
12 material or both but does not include that part of a business operated under a certificate issued
13 under ORS 822.110.

14 (4) "Commercial" means stores, offices including manufacturing and industry offices, restaurants,
15 warehouses, schools, colleges, universities, hospitals and other nonmanufacturing entities, but does
16 not include other manufacturing activities or business, manufacturing or processing activities in
17 residential dwellings.

18 (5) "Commission" means the Environmental Quality Commission.

19 (6) "Compost" means the controlled biological decomposition of organic material or the product
20 resulting from such a process.

21 (7) "Department" means the Department of Environmental Quality.

22 (8)(a) "Disposal site" means land and facilities used for the disposal, handling or transfer of, or
23 energy recovery, material recovery and recycling from solid wastes, including but not limited to
24 dumps, landfills, sludge lagoons, sludge treatment facilities, disposal sites for septic tank pumping
25 or cesspool cleaning service, transfer stations, energy recovery facilities, incinerators for solid waste
26 delivered by the public or by a collection service, composting plants and land and facilities previ-
27 ously used for solid waste disposal at a land disposal site.

28 (b) "Disposal site" does not include:

29 (A) A facility authorized by a permit issued under ORS 466.005 to 466.385 to store, treat or
30 dispose of both hazardous waste and solid waste;

31 (B) A facility subject to the permit requirements of ORS 468B.050 or 468B.053;

32 (C) A site used by the owner or person in control of the premises to dispose of soil, rock, con-
33 crete or other similar nondecomposable material, unless the site is used by the public either directly
34 or through a collection service; or

35 (D) A site operated by a dismantler issued a certificate under ORS 822.110.

36 (9) "Energy recovery" means recovery in which all or a part of the solid waste materials are
37 processed to use the heat content, or other forms of energy, of or from the material.

38 (10) "Franchise" includes a franchise, certificate, contract or license issued by a local govern-
39 ment unit authorizing a person to provide solid waste management services.

40 (11) "Hazardous waste" has the meaning given that term in ORS 466.005.

41 (12) "Household hazardous waste" means any discarded, useless or unwanted chemical, material,
42 substance or product that is or may be hazardous or toxic to the public or the environment and is
43 commonly used in or around households and is generated by the household. "Household hazardous
44 waste" may include but is not limited to some cleaners, solvents, pesticides and automotive and
45 paint products.

1 (13) "Land disposal site" means a disposal site in which the method of disposing of solid waste
2 is by landfill, dump, pit, pond or lagoon.

3 (14) "Landfill" means a facility for the disposal of solid waste involving the placement of solid
4 waste on or beneath the land surface.

5 (15) "Local government unit" means a city, county, metropolitan service district formed under
6 ORS chapter 268, sanitary district or sanitary authority formed under ORS chapter 450, county
7 service district formed under ORS chapter 451, regional air quality control authority formed under
8 ORS 468A.100 to 468A.130 and 468A.140 to 468A.175 or any other local government unit responsible
9 for solid waste management.

10 (16) "Material recovery" means any process of obtaining from solid waste, by presegregation or
11 otherwise, materials that still have useful physical or chemical properties and can be reused or re-
12 cycled for some purpose.

13 **(17) "Materials management" means an approach that seeks to reduce environmental**
14 **impacts by managing materials throughout all stages of their life cycle, including but not**
15 **limited to solid waste management.**

16 [(17)] (18) "Metropolitan service district" means a district organized under ORS chapter 268 and
17 exercising solid waste authority granted to such district under this chapter and ORS chapters 268
18 and 459A.

19 [(18)] (19) "Person" means the United States, the state or a public or private corporation, local
20 government unit, public agency, individual, partnership, association, firm, trust, estate or any other
21 legal entity.

22 [(19)] (20) "Recyclable material" means any material or group of materials that can be collected
23 and sold for recycling at a net cost equal to or less than the cost of collection and disposal of the
24 same material.

25 [(20)] (21) "Recycling" means any process by which solid waste materials are transformed into
26 new products in a manner that the original products may lose their identity.

27 [(21)] (22) "Region" means the states of Idaho, Oregon and Washington and those counties in
28 California and Nevada that share a common border with Oregon.

29 [(22)] (23) "Regional disposal site" means a disposal site that receives, or a proposed disposal
30 site that is designed to receive more than 75,000 tons of solid waste a year from outside the imme-
31 diate service area in which the disposal site is located. As used in this subsection, "immediate
32 service area" means the county boundary of all counties except a county that is within the boundary
33 of the metropolitan service district. For a county within the metropolitan service district, "immedi-
34 ate service area" means the metropolitan service district boundary.

35 [(23)] (24) "Reuse" means the return of a commodity into the economic stream for use in the
36 same kind of application as before without change in its identity.

37 [(24)] (25) "Solid waste" means all useless or discarded putrescible and nonputrescible materials,
38 including but not limited to garbage, rubbish, refuse, ashes, paper and cardboard, sewage sludge,
39 septic tank and cesspool pumpings or other sludge, useless or discarded commercial, industrial,
40 demolition and construction materials, discarded or abandoned vehicles or parts thereof, discarded
41 home and industrial appliances, manure, vegetable or animal solid and semisolid materials, dead
42 animals and infectious waste as defined in ORS 459.386. "Solid waste" does not include:

43 (a) Hazardous waste as defined in ORS 466.005.

44 (b) Materials used for fertilizer or for other productive purposes or which are salvageable as
45 such materials are used on land in agricultural operations and the growing or harvesting of crops

1 and the raising of animals.

2 (c) Woody biomass that is combusted as a fuel by a facility that has obtained a permit described
3 in ORS 468A.040.

4 [(25)] (26) "Solid waste management" means prevention or reduction of solid waste, management
5 of the storage, collection, transportation, treatment, utilization, processing and final disposal of solid
6 waste, recycling, reuse and material or energy recovery from solid waste and facilities necessary
7 or convenient to such activities.

8 [(26)] (27) "Source separate" means that the person who last uses recyclable material separates
9 the recyclable material from solid waste.

10 [(27)] (28) "Transfer station" means a fixed or mobile facility other than a collection vehicle
11 where solid waste is deposited temporarily after being removed from the site of generation but be-
12 fore being transported to a final disposal location.

13 [(28)] (29) "Waste prevention" means to reduce the amount of solid waste generated or resources
14 used, without increasing toxicity, in the design, manufacture, purchase or use of products or pack-
15 aging. "Waste prevention" does not include reuse, recycling or composting.

16 [(29)] (30) "Wasteshed" means an area of the state having a common solid waste disposal system
17 or designated by the commission as an appropriate area of the state within which to develop a
18 common recycling program.

19 [(30)] (31) "Woody biomass" means material from trees and woody plants, including limbs, tops,
20 needles, leaves and other woody parts, grown in a forest, woodland, farm, rangeland or wildland-
21 urban interface environment that is the by-product of forest management, ecosystem restoration or
22 hazardous fuel reduction treatment.

23 [(31)] (32) "Yard debris" includes grass clippings, leaves, hedge trimmings and similar vegetative
24 waste generated from residential property or landscaping activities, but does not include stumps or
25 similar bulky wood materials.

26 **SECTION 38.** ORS 459.015 is amended to read:

27 459.015. (1) The Legislative Assembly finds and declares that:

28 (a) The planning, development and operation of recycling programs is a matter of statewide
29 concern.

30 (b) The opportunity to recycle should be provided to every person in Oregon.

31 (c) There is a shortage of appropriate sites for landfills in Oregon.

32 (d) It is in the best interests of the people of Oregon to extend the useful life of solid waste
33 disposal sites by encouraging waste prevention and the recycling and reuse of materials, and by
34 requiring solid waste to undergo volume reduction through recycling and reuse measures to the
35 maximum extent feasible before disposal. Implementation of waste prevention and recycling and re-
36 use measures will not only increase the useful life of solid waste disposal sites, but also decrease
37 the potential public health and safety impacts associated with the operation of disposal sites.

38 (e) There are limits to Oregon's natural resources and the capacity of the state's environment
39 to absorb the impacts of increasing consumption of resources, increasing waste generation and in-
40 creasing solid waste disposal.

41 (f) It is in the best interests of the people of Oregon to conserve resources and energy by de-
42 veloping an economy that encourages waste prevention and recycling.

43 (g) The State of Oregon should make it a priority to support efforts that assist each wasteshed
44 in meeting its recovery goal so the statewide recovery goal may be achieved.

45 **(h) The purpose of waste prevention, reuse, recycling, composting and waste recovery in**

1 **Oregon is to conserve resources, reduce pollution and optimize environmental benefits, while**
 2 **taking into consideration the impacts of materials and products across the full life cycle,**
 3 **from raw material extraction to end-of-use management.**

4 (i) **It is necessary, in order to protect the health and promote the well-being of all resi-**
 5 **dents in Oregon, to acknowledge and align Oregon's sustainable materials management pol-**
 6 **icy with principles of environmental and social justice across the life cycle of materials**
 7 **consumed in this state.**

8 (j) **Producers of materials sold or distributed in Oregon, regardless of their location, are**
 9 **responsible for creating and implementing appropriate actions that ensure their products and**
 10 **packaging designs consistently reduce negative environmental, health and social burdens**
 11 **across the life cycle of their products and packaging. Such actions include incorporating**
 12 **sustainably extracted raw materials, implementing sustainable manufacturing best practices**
 13 **that are more resource-efficient and less environmentally harmful and toxic, minimizing the**
 14 **generation of waste and release of pollution and sharing in the responsibility for appropriate**
 15 **management of discarded materials at the end of their useful life.**

16 (2) *In the interest of the public health, safety and welfare, [and in order to conserve energy and*
 17 *natural resources,]* **in order to allow all entities in Oregon to produce and use materials**
 18 **responsibly, conserve resources and protect the environment, and in order to allow all people**
 19 **of Oregon to live well,** it is the policy of the State of Oregon to establish a comprehensive state-
 20 wide program for *[solid waste]* **materials management [which] that** will:

21 (a) *[After consideration of technical and economic feasibility, establish priority in methods of*
 22 *managing solid waste in Oregon as follows:]* **Minimize the net negative impacts of materials,**
 23 **across their life cycle, on human well-being and environmental health, including the quality**
 24 **of land, air, water and ecosystems, with consideration of technical and economic feasibility.**

25 (b) **Consistent with paragraph (a) of this subsection, reduce the amount of materials**
 26 **used.**

27 (c) **If information on the net negative impacts described in paragraph (a) of this sub-**
 28 **section is unavailable or highly uncertain, establish priority in methods of managing solid**
 29 **waste in Oregon as follows:**

30 (A) **First, to reduce the amount of solid waste generated[;].**

31 (B) **Second, to reuse material for the purpose for which it was originally intended[;].**

32 (C) **Third, to recycle material that cannot be reused[;], with preference given to recycling**
 33 **pathways, methods and end markets that result in the greatest reduction of net negative**
 34 **impacts on human well-being and environmental health. When these impacts are not known,**
 35 **preference is given to:**

36 (i) **Recycling methods and end markets that displace the production of more impactful**
 37 **materials over recycling methods and end markets that displace the production of less**
 38 **impactful materials.**

39 (ii) **Processes that best preserve the value and molecular structure of the material being**
 40 **recycled.**

41 (D) **Fourth, to compost material that cannot be reused or recycled[;], provided that composting**
 42 **or digestion results in net reductions in impacts on human well-being and environmental**
 43 **health relative to the methods described in subparagraphs (E) and (F) of this paragraph.**

44 (E) **Fifth, to recover energy from solid waste that cannot be reused, recycled or composted [so**
 45 **long as the energy recovery facility preserves the quality of air, water and land resources; and], pro-**

1 **vided that the emissions and impacts of energy recovery are understood and result in net**
 2 **reductions in impacts on human well-being and environmental health relative to the methods**
 3 **described in subparagraph (F) of this paragraph.**

4 (F) Sixth, to dispose of solid waste [*that cannot be reused, recycled, composted or from which en-*
 5 *ergy cannot be recovered*] by landfilling or other method approved by the Department of Environ-
 6 mental Quality.

7 [(b)] (d) Clearly express the Legislative Assembly's previous delegation of authority to cities and
 8 counties for collection service franchising and regulation and the extension of that authority under
 9 the provisions of this section and ORS 459.125 and 459A.005 to 459A.085.

10 [(c)] (e) Retain primary responsibility for management of adequate solid waste management
 11 programs with cities, counties or metropolitan service districts, reserving to the state those func-
 12 tions necessary to ensure effective programs, cooperation among cities, counties or metropolitan
 13 service districts and coordination of solid waste management programs throughout the state.

14 [(d)] (f) Promote, encourage and develop markets first for reusable material and then for
 15 recyclable material.

16 [(e)] (g) Promote research, surveys and demonstration projects to encourage material or energy
 17 recovery.

18 [(f)] (h) Promote research, surveys and demonstration projects to aid in developing more sani-
 19 tary, efficient and economical methods of solid waste management.

20 [(g)] (i) Provide advisory technical assistance and planning assistance to affected persons, in the
 21 planning, development and implementation of solid waste management programs.

22 [(h)] (j) Develop, in coordination with federal, state and local agencies and other affected per-
 23 sons, long-range plans including regional approaches to promote reuse, to provide land reclamation
 24 in sparsely populated areas, and in urban areas necessary disposal facilities.

25 [(i)] (k) Provide for the adoption and enforcement of recycling rates and standards as well as
 26 performance standards necessary for safe, economic and proper solid waste management.

27 [(j)] (L) Provide authority for counties to establish a coordinated program for solid waste man-
 28 agement, to regulate solid waste management and to license or franchise the providing of service
 29 in the field of solid waste management.

30 [(k)] (m) Encourage utilization of the capabilities and expertise of private industry.

31 [(L)] (n) Promote means of preventing or reducing at the source, materials [*which*] **that** other-
 32 wise would constitute solid waste.

33 [(m)] (o) Promote application of material or energy recovery systems [*which*] **that** preserve and
 34 enhance the quality of air, water and land resources.

35 **(p) Provide for recycling collection and processing systems that have adequate capacity**
 36 **and are operated for the purpose of achieving the policy set forth in this section and pro-**
 37 **viding clean, usable materials to industry.**

38 **(q) Ensure that all materials collected for waste disposal or recovery shall be managed**
 39 **responsibly through to their final disposition, minimizing impacts that create pollution or**
 40 **harm the quality of air, land, water and ecosystems, or harm human health and welfare.**

41 **SECTION 39.** ORS 459.995 is amended to read:

42 459.995. (1) Except as provided in subsection (2) of this section, in addition to any other penalty
 43 provided by law:

44 (a) Any person who violates ORS 459.205, 459.270, 459.272, 459.386 to 459.405, 459.705 to 459.790,
 45 459A.005 to 459A.620, 459A.310 to 459A.335[, 459A.675 to 459A.685] or 646A.080 **or sections 2 to**

1 **36 of this 2021 Act**, or any rule or order of the Environmental Quality Commission pertaining to
 2 the disposal, collection, storage or reuse or recycling of solid wastes, as defined by ORS 459.005, or
 3 any rule or order pertaining to the disposal, storage or transportation of waste tires, as defined by
 4 ORS 459.705, or any rule or order pertaining to the sale of novelty items that contain encapsulated
 5 liquid mercury, incurs a civil penalty not to exceed \$25,000 per day for each day of the violation.

6 (b) Any person who violates the provisions of ORS 459.420 to 459.426 incurs a civil penalty not
 7 to exceed \$500 for each violation. Each battery that is disposed of improperly is a separate violation.
 8 Each day an establishment fails to post the notice required under ORS 459.426 is a separate vio-
 9 lation.

10 (c) For each day a city, county or metropolitan service district fails to provide the opportunity
 11 to recycle as required under ORS 459A.005, the city, county or metropolitan service district incurs
 12 a civil penalty not to exceed \$500 for each violation.

13 (d) Any person who violates the provisions of ORS 459.247 (1)(f) incurs a civil penalty not to
 14 exceed \$500 for each violation. Each covered electronic device that is disposed of improperly is a
 15 separate violation.

16 (e) Any retailer that violates the provisions of ORS 459A.825 (1) or (2)(b) incurs a civil penalty
 17 not to exceed \$100 per day for each day of the violation.

18 (f) Any producer that violates the provisions of ORS 459A.825 (1) incurs a civil penalty not to
 19 exceed \$1,000 per day for each day of the violation.

20 (g) Any stewardship organization that violates the provisions of ORS 459A.825 (2)(a), 459A.827,
 21 459A.830 to 459A.837 or 459A.842 incurs a civil penalty not to exceed \$1,000 per day for each day
 22 of the violation.

23 (2) Any product manufacturer or package manufacturer who violates ORS 459A.650 to 459A.665
 24 or any rule adopted under ORS 459A.650 to 459A.665 incurs a civil penalty not to exceed \$1,000 per
 25 day for each day of the violation. A violation of ORS 459A.650 to 459A.665 is not subject to addi-
 26 tional penalties under subsection (1) of this section.

27 (3) Any civil penalty authorized by subsection (1) or (2) of this section shall be imposed in the
 28 manner provided by ORS 468.135.

29 **SECTION 40.** ORS 459A.005 is amended to read:

30 459A.005. (1) As used in ORS 459.015, 459.250 and 459A.005 to 459A.665, the “opportunity to
 31 recycle” means at least that the city, county or metropolitan service district responsible for solid
 32 waste management:

33 (a)(A) Provides a place for collecting source separated recyclable material, **including the ma-**
 34 **terials on the uniform statewide collection list established under section 19 of this 2021 Act**
 35 **designated for collection at a recycling depot**, located either at a disposal site or at another lo-
 36 cation more convenient to the population being served and, if a city has a population of 4,000 or
 37 more, collection at least once a month of source separated recyclable material, **including the ma-**
 38 **terials on the uniform statewide collection list established under section 19 of this 2021 Act**
 39 **designated for on-route collection, in a manner that is at least as convenient as garbage**
 40 **collection service**, from collection service customers within the city’s urban growth boundary or,
 41 where applicable, within the urban growth boundary established by a metropolitan service district;
 42 or

43 (B) Provides an alternative method that complies with rules of the Environmental Quality
 44 Commission; and

45 (b) Complies with the program element requirements described in ORS 459A.007.

1 (2) The “opportunity to recycle” defined in subsection (1) of this section also includes a public
2 education and promotion program that:

3 (a) Gives notice to each person of the opportunity to recycle; and

4 (b) Encourages source separation of recyclable material.

5 **SECTION 41.** ORS 459A.005, as amended by section 2, chapter 534, Oregon Laws 2015, is
6 amended to read:

7 459A.005. (1) As used in ORS 459.015, 459.250 and 459A.005 to 459A.665, the “opportunity to
8 recycle” means at least that the city, county or metropolitan service district responsible for solid
9 waste management:

10 (a)(A) Provides a place for collecting source separated recyclable material, **including the ma-**
11 **terials on the uniform statewide collection list established under section 19 of this 2021 Act**
12 **designated for collection at a recycling depot**, located either at a disposal site or at another lo-
13 cation more convenient to the population being served and, if a city has a population of 4,000 or
14 more, collection at least once a month of source separated recyclable material, **including the ma-**
15 **terials on the uniform statewide collection list established under section 19 of this 2021 Act**
16 **designated for on-route collection, in a manner that is at least as convenient as garbage**
17 **collection service**, from collection service customers within the city’s urban growth boundary or,
18 where applicable, within the urban growth boundary established by a metropolitan service district;
19 or

20 (B) Provides an alternative method that complies with rules of the Environmental Quality
21 Commission; and

22 (b) Complies with the program element requirements described in ORS 459A.007.

23 (2) The “opportunity to recycle” defined in subsection (1) of this section also includes a public
24 education and promotion program that:

25 (a) Gives notice to each person of the opportunity to recycle; and

26 (b) Encourages source separation of recyclable material.

27 (3) As used in this section, “collection service customers” includes:

28 (a) Customers of a collection service as defined in ORS 459.005; and

29 (b) The residential and commercial tenants of landlords or property managers that are customers
30 of a collection service for the benefit of their tenants.

31 **SECTION 42.** ORS 459A.007 is amended to read:

32 459A.007. (1) A person providing the opportunity to recycle shall fulfill the requirements of
33 subsection (3) of this section using the following recycling program elements:

34 (a) Provision of at least one durable recycling container to each residential service customer.

35 (b) On-route collection at least once each week of source separated recyclable material from
36 residential collection service customers, provided on the same day that solid waste is collected from
37 each customer.

38 (c) An expanded education and promotion program as described in ORS 459A.008.

39 (d) A multifamily collection program that includes:

40 (A) Collection of [*at least four principal recyclable materials or the number of materials required*
41 *to be collected under the residential on-route collection program, whichever is less,*] **materials desig-**
42 **nated for collection on the uniform statewide collection list established under section 19 of**
43 **this 2021 Act** from each multifamily dwelling complex that has five or more units; and

44 (B) Education and promotion directed to the residents of the multifamily dwelling complex.

45 (e) An effective residential yard debris collection and composting program that includes the

1 promotion of home composting of yard debris, and that also includes either:

2 (A) Monthly or more frequent on-route collection of yard debris from residential collection ser-
 3 vice customers for production of compost or other marketable products; or

4 (B) A system of yard debris collection depots conveniently located and open to the public at
 5 least once a week.

6 (f) A commercial recycling program that includes:

7 (A) Weekly, or on a more appropriate regular schedule, onsite collection of source separated
 8 [*principal recyclable*] materials **designated for collection on the uniform statewide collection list**
 9 **established under section 19 of this 2021 Act** from, at a minimum, commercial generators of solid
 10 waste employing 10 or more persons and occupying 1,000 square feet or more in a single location.

11 (B) An education and promotion program conducted to inform all commercial generators of solid
 12 waste of the manner and benefits of the commercial recycling program that provides effective pro-
 13 motion of the program to the generators.

14 (C) Other optional elements, including but not limited to waste assessments and recycling re-
 15 cognition programs. A city or county is encouraged to involve local business organizations in pub-
 16 licly recognizing outstanding recycling efforts by commercial generators of solid waste. The
 17 recognition may include awards designed to provide additional incentives to increase recycling ef-
 18 forts.

19 (D) Each commercial generator of solid waste shall strive to achieve 55 percent recovery from
 20 its solid waste stream by the year 2025.

21 (g) Expanded depots for recycling of at least all [*principal recyclable*] materials **designated for**
 22 **collection at recycling depots on the uniform statewide collection list established under sec-**
 23 **tion 19 of this 2021 Act**, and provisions for promotion or education to maximize the use of the de-
 24 pots. The depots must:

25 (A) Have regular and convenient hours;

26 (B) Be open on the weekend days; and

27 (C) When feasible, collect additional recyclable materials.

28 (h) Solid waste residential collection rates that encourage waste reduction, reuse and recycling
 29 through reduced rates for smaller containers, including at least one rate for a container that is 21
 30 gallons or less in size. Based on the average weight of solid waste disposed per container for con-
 31 tainers of different sizes, the rate on a per pound disposed basis may not decrease with increasing
 32 size of containers, and the rates per container service may not be less with additional containers
 33 serviced.

34 (i) A collection and composting system for food and other compostable waste from commercial
 35 and institutional entities that generate large amounts of such wastes.

36 (j) A commercial recycling program that requires commercial generators of solid waste that
 37 generate large amounts of recyclable materials to source separate recyclable materials.

38 (k) A program for monthly or more frequent on-route collection and composting for food and
 39 other compostable waste from residential collection service customers. The program described in
 40 this paragraph must include education or promotion to reduce contamination of the compost
 41 feedstock collected.

42 (L) A recovery program for construction and demolition debris that:

43 (A) Requires construction and demolition debris to be source separated at the generation site
 44 or sent to a material recovery facility for processing and recovery; and

45 (B) Includes an education or promotion program for developers, contractors and residential

1 owners that provides strategies to:

2 (i) Reduce waste during preconstruction planning and in building construction, renovation and
3 demolition phases; and

4 (ii) Direct waste to reuse and material recovery facilities.

5 (m) A food waste collection program requiring nonresidential generators that generate large
6 amounts of food waste to source separate the food waste for recovery.

7 (2) The waste prevention education and reuse program elements that a city or county shall use
8 to implement the requirements of subsection (6) or (7) of this section are as follows:

9 (a) A citywide or countywide education and promotion program about the environmental benefits
10 of, and opportunities to reduce the generation of waste through, waste prevention and reuse.

11 (b) A waste prevention campaign targeting residential generators of waste and focused on one
12 or more toxic or energy intensive materials or consumer purchasing practices.

13 (c) A waste prevention campaign targeting commercial or institutional generators of waste and
14 focused on one or more toxic or energy intensive materials or consumer purchasing practices.

15 (d) A waste prevention and reuse education program in elementary and secondary schools.

16 (e) A program for the provision of city or wasteshed funding or infrastructure support to pro-
17 mote and sustain reuse, repair, leasing or sharing efforts.

18 (f) A program for the provision of city or wasteshed technical assistance to promote and sustain
19 the reuse, repair or leasing of materials or other sharing of efforts to reduce waste.

20 (g) City or wasteshed support for a food rescue program that diverts to residents food that
21 would otherwise be composted or disposed.

22 (3) Each city that is within a metropolitan service district or with a population of at least 4,000
23 and each county that is responsible for the area between city limits and the urban growth boundary
24 of the city or the area outside the city limits but within a metropolitan service district shall imple-
25 ment either:

26 (a) The applicable number of recycling program elements for the size and location of the city
27 as provided in subsection (4) of this section; or

28 (b) An alternative program that complies with the rules of the Environmental Quality Commis-
29 sion and that is designed to be as effective in recovering recyclable materials from solid waste as
30 the requirements provided in subsection (4) of this section and to achieve at least the lesser of:

31 (A) Recovery rates specified in ORS 459A.010 (2); or

32 (B) Recovery levels comparable to similar communities.

33 (4) The number of recycling program elements that cities and counties must implement to com-
34 ply with subsection (3) of this section are as follows:

35 (a) For cities within a metropolitan service district:

36 (A) The three recycling program elements set forth under subsection (1)(a), (b) and (c) of this
37 section and at least four additional [*elements*] **element** set forth under subsection (1) of this section;
38 or

39 (B) At least eight recycling program elements set forth under subsection (1) of this section.

40 (b) For cities with a population of at least 4,000 but not more than 10,000 that are located 120
41 miles or less from the City of Portland, at least four recycling program elements set forth under
42 subsection (1) of this section.

43 (c) For cities with a population of at least 4,000 but not more than 10,000 that are more than
44 120 miles from the City of Portland, at least three recycling program elements set forth under sub-
45 section (1) of this section.

1 (d) For cities with a population of more than 10,000 but not more than 50,000 that are located
 2 150 miles or less from the City of Portland:

3 (A) The three recycling program elements set forth under subsection (1)(a), (b) and (c) of this
 4 section and at least two additional elements set forth under subsection (1) of this section; or

5 (B) At least six recycling program elements set forth under subsection (1) of this section.

6 (e) For cities with a population of more than 10,000 that are located more than 150 miles from
 7 the City of Portland:

8 (A) The three recycling program elements set forth under subsection (1)(a), (b) and (c) of this
 9 section and at least one additional elements set forth under subsection (1) of this section; or

10 (B) At least five recycling program elements set forth under subsection (1) of this section.

11 (f) For cities with a population of more than 50,000 that are located 150 miles or less from the
 12 City of Portland:

13 (A) The three recycling program elements set forth under subsections (1)(a), (b) and (c) of this
 14 section and at least three additional recycling program elements set forth under subsection (1) of
 15 this section; or

16 (B) At least seven recycling program elements set forth under subsection (1) of this section.

17 (5) A city or county that is not subject to subsection (6) or (7) of this section may substitute the
 18 waste prevention and reuse program element set forth in subsection (2)(a) of this section and at least
 19 two additional elements set forth in subsection (2) of this section for one recycling program element
 20 set forth under subsection (1) of this section.

21 (6) Each city that is within a metropolitan service district or with a population of greater than
 22 50,000 and each county that is responsible for the area between city limits and the urban growth
 23 boundary of a city with a population of greater than 50,000 or the area outside of city limits but
 24 within a metropolitan service district urban growth boundary shall implement either:

25 (a) The waste prevention and reuse program element set forth under subsection (2)(a) of this
 26 section, and at least four additional elements set forth under subsection (2) of this section; or

27 (b) An alternative program that complies with the rules of the Environmental Quality Commis-
 28 sion and is designed to achieve similar benefits as the elements in subsection (2) of this section.

29 (7) Each city with a population of greater than 10,000 but no more than 50,000, that is within
 30 a county of greater than 100,000 population, and each county of greater than 100,000 population that
 31 is responsible for the area between city limits and the urban growth boundary of a city with a
 32 population of greater than 10,000 but no more than 50,000 shall implement either:

33 (a) The waste prevention and reuse program element set forth under subsection (2)(a) of this
 34 section, and at least two additional elements set forth under subsection (2) of this section; or

35 (b) An alternative program that complies with the rules of the Environmental Quality Commis-
 36 sion and is designed to achieve similar benefits as the elements in subsection (2) of this section.

37 (8)(a) For a city using waste prevention and reuse elements set forth under subsection (2) of this
 38 section to satisfy requirements set forth in subsection (6) or (7) of this section, waste prevention and
 39 reuse elements may be provided by the county or metropolitan service district where the city is lo-
 40 cated, provided that implementation or provisions of such elements are made available throughout
 41 the city.

42 (b) For a county that includes or is within a metropolitan service district using waste prevention
 43 and reuse elements set forth under subsection (2) of this section to satisfy requirements set forth in
 44 subsection (6) or (7) of this section, waste prevention and reuse elements may be provided by the
 45 metropolitan service district where the county is located, provided that implementation or provision

1 of such elements are made available within the entire urban growth boundary of the metropolitan
 2 service district.

3 (9)(a) Each local government that franchises or licenses the collection of solid waste and es-
 4 tablishes the rates to be charged for collection service shall:

5 (A) Include in those rates all net costs incurred by the local government, franchisee or licensee
 6 for providing the opportunity to recycle and for implementing the requirements of this section; or

7 (B) Fund implementation of the opportunity to recycle through an alternative source of funding
 8 that may include but is not limited to disposal fees.

9 (b) As used in this subsection, “net costs” includes but is not limited to the reasonable costs for
 10 collecting, handling, processing, storing, transporting and delivering to market recyclable material
 11 and for providing any required education and promotion or data collection services adjusted by a
 12 factor to account for proceeds from the sale of recyclable material.

13 (10) A local government may assess a fee on solid waste collection or disposal services to cover
 14 costs to the local government for providing the opportunity to recycle and for implementing the
 15 requirements of this section.

16 **SECTION 43.** ORS 459A.008 is amended to read:

17 459A.008. An expanded education and promotion program to satisfy the requirements of ORS
 18 459A.007 must carry out the policy set forth in ORS 459.015, inform generators of solid waste of the
 19 manner and benefits of reducing, reusing, recycling and composting material, promote use of recy-
 20 cling services and reduce contamination in collected recyclables. The city, county or metropolitan
 21 service district responsible for providing an opportunity to recycle shall provide the education and
 22 promotion program in one of the following ways:

23 (1)(a) Preparing and implementing an education and promotion plan that includes actions to ef-
 24 fectively reach solid waste generators and all new and existing collection service customers as
 25 necessary to fulfill the intent of this section.

26 (b) The plan described in paragraph (a) of this subsection must be submitted to the Department
 27 of Environmental Quality during the first year that the plan is in effect. Thereafter, the wasteshed
 28 shall submit a summary of activities in the plan to the department at the same time the county
 29 submits the periodic report required under ORS 459A.050 (1)(a). The summary must cover at least
 30 the time period until the next periodic report is due to the department.

31 (2) Implementing all of the following:

32 (a)(A) Provision of recycling notification and education packets to all new residential, commer-
 33 cial and institutional collection service customers that include, at a minimum, information about the
 34 materials collected, the schedule for collection, the way to prepare materials for collection, why
 35 separating material for recycling is necessary and how to reduce contamination of the materials set
 36 out for collection.

37 (B) In addition to the requirements of subparagraph (A) of this paragraph, the educational and
 38 promotional materials provided to commercial collection customers must:

39 (i) Be targeted to meet the needs of various types of businesses;

40 (ii) Include information on the economic and other benefits of recycling, common barriers to
 41 recycling and solutions to the barriers, additional resources for commercial generators of solid
 42 waste and other information designed to assist and encourage recycling efforts and reduce contam-
 43 ination; and

44 (iii) Encourage each commercial collection customer to have a goal to achieve 55 percent re-
 45 covery from the customer’s solid waste stream by 2025.

1 (b) Provision of recycling information to collection service customers, in a variety of formats
 2 and materials at least four times per calendar year, that includes, at a minimum, the materials col-
 3 lected and the schedule for collection.

4 (c) Provision, at least annually, of the information described in paragraph (a) of this subsection
 5 to all residential, commercial and institutional collection service customers.

6 (d) Targeting of community and media events to promote recycling and reduce contamination in
 7 collected recyclables.

8 *[(e) A program to determine the levels of contamination of materials set out for collection and to*
 9 *take action to reduce contamination in collected recyclables.]*

10 **SECTION 44.** ORS 459A.025 is amended to read:

11 459A.025. (1) According to the requirements of ORS chapter 183, the Environmental Quality
 12 Commission shall adopt rules and guidelines necessary to carry out the provisions of ORS 459.005,
 13 459.015, 459.035, 459.250, 459.992 (1) and (2), 459.995 and 459A.005 to 459A.665, including but not
 14 limited to:

15 (a) Acceptable alternative methods for providing the opportunity to recycle;

16 (b) Education, promotion and notice requirements, which requirements may be different for dis-
 17 posal sites and collection systems;

18 (c) Identification of the wastesheds within the state;

19 *[(d) Identification of the principal recyclable material in each wasteshed;]*

20 *[(e)]* (d) Guidelines for local government units and other persons responsible for implementing
 21 the provisions of ORS 459.005, 459.015, 459.035, 459.250, 459.992 (1) and (2), 459.995 and 459A.005 to
 22 459A.665; and

23 *[(f)]* (e) Standards for the joint submission of the recycling reports required under ORS 459A.050
 24 (1).

25 (2) In adopting rules or guidelines under this section, the commission shall consider:

26 (a) The policy stated in ORS 459.015.

27 (b) Systems and techniques available for recycling, including but not limited to existing recycl-
 28 ing programs.

29 (c) Availability of markets for recyclable material.

30 (d) Costs of collecting, storing, transporting and marketing recyclable material.

31 (e) Avoided costs of disposal.

32 (f) Density and characteristics of the population to be served.

33 (g) Composition and quantity of solid waste generated and potential recyclable material found
 34 in each wasteshed.

35 **SECTION 45.** ORS 459A.075 is amended to read:

36 459A.075. Nothing in *[ORS 459.005, 459.015, 459.035, 459.250, 459.992, 459.995 and 459A.005 to*
 37 *459A.665]* **ORS 459A.080 (3) and 459A.085** applies to recyclable material *[which]* **that** is:

38 (1) Source separated by the generator; and

39 (2) Purchased from or exchanged by the generator for fair market value for recycling or reuse.

40 **SECTION 46.** ORS 459A.080 is amended to read:

41 459A.080. A person may not:

42 (1) Without the permission of the owner or generator of recyclable material, take recyclable
 43 material set out to be collected by a person authorized by a city or county to provide collection
 44 service for that recyclable material.

45 (2) Remove any recyclable material from a container, box, collection vehicle, depot or other re-

1 ceptacle for the accumulation or storage of recyclable material without permission of the owner of
 2 the receptacle.

3 (3)(a) **Except as provided in paragraph (b) of this subsection**, mix source separated
 4 recyclable material with solid waste in any **landfill or** vehicle, box, container or receptacle used in
 5 solid waste collection or disposal.

6 (b) **The Environmental Quality Commission may establish by rule exemptions from the**
 7 **prohibition against mixing source separated recyclable materials contained in paragraph (a)**
 8 **of this subsection.**

9 **SECTION 47.** ORS 459.035 is amended to read:

10 459.035. Consistent with ORS 459.015 [(2)(c)] (2)(e), the Department of Environmental Quality
 11 shall provide to state agencies, local government units and persons providing collection service,
 12 advisory technical and planning assistance in development and implementation of effective solid
 13 waste management plans and practices, implementation of recycling programs under ORS 459.250,
 14 459A.005 to 459A.120 and 459A.600 to 459A.620, and assistance in training of personnel in solid
 15 waste management. The department shall report to the Legislative Assembly from time to time on
 16 further assistance that will be needed to develop, implement and administer effective solid waste
 17 management programs or recycling programs. The department shall assist in surveys to locate po-
 18 tential disposal sites. The department may request the assistance of other state agencies.

19 **SECTION 48.** ORS 459.772 is amended to read:

20 459.772. Notwithstanding any other provision of ORS 459.015, for purposes of encouraging the
 21 use of waste tires under ORS 459.705 to 459.790, the use of processed, source-separated waste tires
 22 having a positive market value as a new product to recover energy shall be considered recycling
 23 under ORS 459.015 [(2)(a)(C)] (2)(e)(C).

24 **SECTION 49.** ORS 90.318 is amended to read:

25 90.318. (1) In a city or the county within the urban growth boundary of a city that has imple-
 26 mented multifamily recycling service, a landlord who has five or more residential dwelling units on
 27 a single premises or five or more manufactured dwellings in a single facility shall at all times during
 28 tenancy provide to all tenants:

29 (a) A separate location for containers or depots for [*at least four principal recyclable materials*
 30 *or for the number of materials required to be collected under the residential on-route collection pro-*
 31 *gram, whichever is less,*] **materials designated for collection on the uniform statewide collection**
 32 **list established under section 19 of this 2021 Act**, adequate to hold the reasonably anticipated
 33 volume of each material;

34 (b) Regular collection service of the source separated recyclable materials; and

35 (c) Notice at least once a year of the opportunity to recycle with a description of the location
 36 of the containers or depots on the premises and information about how to recycle. New tenants shall
 37 be notified of the opportunity to recycle at the time of entering into a rental agreement.

38 (2) As used in this section, “recyclable material” and “source separate” have the meaning given
 39 those terms in ORS 459.005.

40
 41 **REPEALS**

42
 43 **SECTION 50.** ORS 459A.675, 459A.680 and 459A.685 are repealed.

44
 45 **TEMPORARY PROVISIONS**

