

A-Engrossed House Bill 2062

Ordered by the House April 15
Including House Amendments dated April 15

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Climate, Energy, and Environment for Representative John Lively)

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. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: This Act says that makers of batteries must carry out a plan to collect and recycle batteries. (Flesch Readability Score: 60.1).

Requires producers of batteries or battery-containing products to join a battery producer responsibility organization and implement a battery producer responsibility program for the collection and recycling of batteries.

Directs the Department of Environmental Quality to administer and enforce requirements of the Act.

Establishes the Battery Producer Responsibility Fund.

A BILL FOR AN ACT

Relating to batteries; creating new provisions; and amending ORS 459.995.

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

BATTERY PRODUCER RESPONSIBILITY ORGANIZATIONS

SECTION 1. Sections added to chapter. Sections 2 to 17 of this 2025 Act are added to and made a part of ORS chapter 459A.

SECTION 2. Definitions. As used in sections 2 to 17 of this 2025 Act:

(1)(a) "Battery-containing product" means a product that contains or is packaged with a covered battery.

(b) "Battery-containing product" does not include a covered electronic device as defined in ORS 459A.305.

(2) "Battery producer responsibility organization" means a nonprofit organization designated by a group of five or more covered producers to act as an agent of the covered producers to develop and implement a battery producer responsibility program on behalf of the covered producers.

(3) "Battery producer responsibility program" means a statewide program for the responsible management of covered batteries that is implemented by a battery producer responsibility organization pursuant to a plan approved by the Department of Environmental Quality under section 5 of this 2025 Act.

(4) "Brand" means any mark, word, name, symbol, design, device or graphical element, or a combination thereof, including a registered or unregistered trademark, that identifies a product and distinguishes the product from other products.

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

1 (5)(a) "Covered battery" means a portable battery or a medium format battery.

2 (b) "Covered battery" does not include:

3 (A) A battery contained within a medical device that is not designed and marketed for
4 sale or resale principally to consumers for personal use and that:

5 (i) Is a device, as defined in 21 U.S.C. 321(h) as in effect on the effective date of this 2025
6 Act; or

7 (ii) Satisfies other criteria established by the Environmental Quality Commission by rule
8 to maintain consistency with federal laws concerning medical devices.

9 (B) A battery that contains an electrolyte as a free liquid.

10 (C) A lead acid battery weighing greater than 11 pounds.

11 (D) A battery contained within a product, if the battery is not intended or designed to
12 be easily removable from the product.

13 (E) A battery designed to power a motor vehicle or a part of a motor vehicle, including
14 a part of a motor vehicle assembled by, or for, a motor vehicle manufacturer or motor ve-
15 hicle dealer or a replacement part for use in a motor vehicle.

16 (F) Battery energy storage systems as defined in ORS 469.300.

17 (G) A battery that is being recalled for safety reasons.

18 (6) "Covered entity" means:

19 (a) A resident of this state;

20 (b) A business entity located in this state;

21 (c) A public or private institution of learning in this state;

22 (d) A local government, as defined in ORS 174.116; or

23 (e) A nonprofit organization located in this state.

24 (7)(a) "Covered producer" means any person:

25 (A) That manufactures covered products under a brand that the manufacturer owns or
26 is licensed to use;

27 (B) That sells, irrespective of the selling technique used, covered products manufactured
28 by others under a brand that the seller owns;

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

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

32 (E) On whose account covered products manufactured outside the United States are im-
33 ported into the United States.

34 (b) "Covered producer" does not include a person described as the covered producer of
35 a battery-containing product under paragraph (a) of this subsection if:

36 (A) The covered batteries packaged with or contained within the battery-containing
37 product are easily removable and supplied by a covered producer that has joined a battery
38 producer responsibility organization as the producer for that covered battery under sections
39 2 to 17 of this 2025 Act; and

40 (B) The person provides a written statement to the department that:

41 (i) Identifies the person that produces the battery-containing product and the covered
42 producer of the covered batteries packaged with or contained within the battery-containing
43 product;

44 (ii) States that the covered producer is participating in the battery producer responsi-
45 bility organization on behalf of the person that produces the battery-containing product;

1 (iii) States that the person that produces the battery-containing product and the covered
2 producer will notify the department if the covered producer ceases to participate in the
3 battery producer responsibility organization on behalf of the producer of the battery-
4 containing product; and

5 (iv) Is signed by an authorized representative of the covered producer and the person
6 that produces the battery-containing product.

7 (8) “Covered product” means a covered battery or a battery-containing product.

8 (9) “Damaged or defective battery” means a battery that has been damaged or identified
9 by the manufacturer as being defective for safety reasons and must be transported and
10 packaged as required by rules adopted by the federal Pipeline and Hazardous Materials Safety
11 Administration.

12 (10) “Easily removable” means designed by a manufacturer to be removable without the
13 use of tools or removable with the use of only common household tools.

14 (11) “Medium format battery” means:

15 (a) A rechargeable battery that:

16 (A)(i) Weighs more than 11 pounds; or

17 (ii) Has a rating of more than 300 watt-hours; and

18 (B)(i) Weighs no more than 25 pounds; or

19 (ii) Has a rating of no more than 2,000 watt-hours.

20 (b) A primary battery that weighs more than 4.4 pounds but less than or equal to 25
21 pounds.

22 (12) “Nonprofit organization” means an organization or group of organizations described
23 in section 501(c)(3) of the Internal Revenue Code that is exempt from income tax under
24 section 501(a) of the Internal Revenue Code.

25 (13) “Portable battery” means:

26 (a) A rechargeable battery that weighs 11 pounds or less and has a rating of 300 watt-
27 hours or less; or

28 (b) A primary battery that weighs 4.4 pounds or less.

29 (14) “Primary battery” means a battery that is not capable of being recharged.

30 (15) “Processor” means a facility that processes covered batteries after collection and
31 prepares covered batteries for recycling or management through the final destination of the
32 collected covered battery material.

33 (16) “Rechargeable battery” means a battery that contains one or more voltaic or
34 galvanic cells, electrically connected to produce electric energy, and that is designed to be
35 recharged.

36 (17) “Responsible end market” means a materials market in which the recycling or re-
37 covery of materials or the disposal of contaminants is conducted in a way that benefits the
38 environment and minimizes risks to public health and worker health and safety.

39 (18) “Responsible management” means the handling, tracking, processing, disposition and
40 other management of covered batteries and materials from covered batteries, from the point
41 of collection through the final destination of the collected material, in a way that complies
42 with section 8 of this 2025 Act and all other applicable laws, and ensures continuous im-
43 provement in environmental outcomes, reduction of environmental impacts and protection
44 of health, safety and data privacy in the management of covered batteries for final disposi-
45 tion.

SECTION 3. Requirement to participate in a battery producer responsibility organization.

(1) A covered producer may not sell, offer for sale or distribute in or into this state a covered product unless the covered producer satisfies the requirements of sections 2 to 17 of this 2025 Act by participating in a battery producer responsibility organization that successfully implements a battery producer responsibility program.

(2) The failure of a battery producer responsibility organization to satisfy any of the responsibilities delegated to it by a covered producer for developing and implementing a battery producer responsibility program does not relieve the covered producer of the covered producer's responsibility to satisfy the requirements of sections 2 to 17 of this 2025 Act.

SECTION 4. Plans for battery producer responsibility programs. (1) In the form and manner prescribed by the Department of Environmental Quality, a battery producer responsibility organization shall submit to the department a plan for implementing a battery producer responsibility program as provided in this section.

(2) A battery producer responsibility program plan must describe how the battery producer responsibility organization will implement a battery producer responsibility program that satisfies the requirements of sections 2 to 17 of this 2025 Act. The plan must include:

(a) A list of all covered producers participating in the battery producer responsibility organization and a list of each brand of covered product sold, offered for sale or distributed in or into this state by each participating covered producer.

(b) A description of how the battery producer responsibility organization will:

(A) Provide for the responsible management of covered batteries consistent with section 8 of this 2025 Act and the polices set forth in ORS 459.015 (2).

(B) Provide for convenient and equitable service as required by section 7 of this 2025 Act, including a list of all service providers involved in the management of collected batteries, including all collection sites, transporters and processors the battery producer responsibility organization will contract with or use to provide services required by sections 2 to 17 of this 2025 Act.

(C) Provide for education and public awareness as required by section 9 of this 2025 Act, including a description of the biennial survey to measure public awareness required by section 9 of this 2025 Act.

(D) Establish a schedule of membership fees sufficient to meet the financial obligations of the battery producer responsibility organization as described in section 11 of this 2025 Act.

(E) Ensure continuous improvement of the battery producer responsibility program by establishing and working to achieve measurable performance goals for the program. Performance goals must include the date by which the goal will be met. Beginning with the fourth program year and thereafter, performance goals must include annual goals for:

(i) Collection rates;

(ii) Recycling efficiency; and

(iii) Achieving, maintaining and improving high public awareness of the program, including awareness in low-income, rural and other historically underserved communities.

(F) Coordinate with other battery producer responsibility organizations, if applicable.

(c) A program budget that describes how the battery producer responsibility organization will finance the battery producer responsibility program, with all costs to carry out a program that satisfies the requirements of sections 2 to 17 of this 2025 Act apportioned among each covered producer participating in the battery producer responsibility organization, as

1 required by section 11 of this 2025 Act.

2 **SECTION 5. Approval of battery producer responsibility program plans.** (1) The Depart-
3 ment of Environmental Quality shall approve a battery producer responsibility program plan
4 submitted to the department under section 4 of this 2025 Act if the department determines
5 that the plan meets the requirements of section 4 of this 2025 Act and that the battery pro-
6 ducer responsibility organization will successfully implement the program in accordance with
7 the plan.

8 (2) Not later than 90 days after receiving a plan under section 4 of this 2025 Act, the
9 department shall either approve, approve with conditions or reject the plan. If the depart-
10 ment rejects the plan the department shall provide the reason or reasons for the rejection
11 to the battery producer responsibility organization in writing. A battery producer responsi-
12 bility organization shall submit a revised plan to the department no later than 60 days after
13 the date of the rejection.

14 (3) No later than 60 days after receiving a revised plan under subsection (2) of this sec-
15 tion, the department shall either approve, approve with conditions or reject the revised plan.
16 If the department rejects the revised plan, the department shall provide the reason or rea-
17 sons for the rejection to the battery producer responsibility organization in writing. A bat-
18 tery producer responsibility organization shall submit a second revised plan to the
19 department no later than 45 days after the date of the rejection.

20 (4)(a) No later than 45 days after receiving a second revised plan under subsection (3) of
21 this section, the department shall either approve the second revised plan or make such
22 modifications to the plan as necessary for approval.

23 (b) Notwithstanding paragraph (a) of this subsection, if, after receiving a second revised
24 plan, the department determines that the battery producer responsibility organization will
25 be unable to successfully implement a battery producer responsibility program in accordance
26 with a proposed or modified plan, the department shall specify the date on which the battery
27 producer responsibility organization must cease to operate a battery producer responsibility
28 program in this state and the date on which all covered producers participating in the bat-
29 tery producer responsibility program must participate in another battery producer respon-
30 sibility program. The department may consider the past performance of a battery producer
31 responsibility organization when making a determination under this paragraph.

32 (5)(a) A plan approved by the department under this section is valid for three program
33 years. No less than 180 days before a plan approved under this section expires, a battery
34 producer responsibility organization shall submit an updated plan to be approved as provided
35 in this section for an additional three program years. An updated plan must satisfy the re-
36 quirements of section 4 of this 2025 Act and describe any substantive changes from the pre-
37 viously approved plan.

38 (b) The department's rejection of a plan does not relieve a battery producer responsibility
39 organization from continuing to implement a battery producer responsibility program in
40 compliance with a previously approved plan pending a final action by the department on the
41 updated plan.

42 (6) Subject to section 16 of this 2025 Act, the department may make available to the
43 public battery producer responsibility program plans, and any revisions thereto.

44 (7) Beginning no later than 90 days after a plan is approved under this section, a battery
45 producer responsibility organization shall implement a battery producer responsibility pro-

1 gram as described in the approved plan.

2 **SECTION 6. Changes to battery producer responsibility programs.** (1) In a form and
3 manner prescribed by the Department of Environmental Quality, a battery producer re-
4 sponsibility organization shall request preapproval from the department for any change to a
5 battery producer responsibility program plan that substantively alters the program. Except
6 as provided in subsection (3) of this section, a battery producer responsibility organization
7 shall make a request under this subsection not later than 60 days before the change is to
8 occur. For purposes of this subsection, changes that substantively alter a battery producer
9 responsibility program include, but are not limited to:

10 (a) Changes involving the methods used to collect covered batteries;

11 (b) Changes involving methods used to dispose of covered batteries;

12 (c) Changes to the policies and procedures for handling and disposing of covered bat-
13 teries;

14 (d) Changes involving methods used to foster public awareness of the battery producer
15 responsibility program; and

16 (e) Changes to the location of a collection site.

17 (2) The department shall approve or reject a request submitted pursuant to subsection
18 (1) of this section within 60 days of receiving the request. If the department does not approve
19 or reject the request, and provide written notice to the battery producer responsibility or-
20 ganization of the department's decision within 60 days of the date on which the department
21 received the request, the proposed change shall be considered approved.

22 (3) If a battery producer responsibility organization intends to make a proposed change
23 to a battery producer responsibility program but, for good cause as determined by the de-
24 partment, is unable to make a request 60 days before the proposed change is to occur as
25 required under subsection (1) of this section, the battery producer responsibility organization
26 shall notify the department of the proposed change as far in advance of the proposed change
27 as practicable. Upon receipt of notice described in this subsection, the department shall
28 consult with the battery producer responsibility organization regarding the proposed change.
29 Not later than seven business days after receiving the notice, the department may tempo-
30 rarily approve the proposed change.

31 (4) The department may require a battery producer responsibility organization to modify
32 a battery producer responsibility program plan and submit to the department changes for
33 approval as described in subsections (1) to (3) of this section if the department determines
34 that the battery producer responsibility organization is not meeting program goals described
35 in an approved battery producer responsibility program plan.

36 (5) In a form and manner prescribed by the department, a battery producer responsibility
37 organization shall notify the department within 90 days after any change to:

38 (a) The contact information for the battery producer responsibility organization;

39 (b) Which covered producers are participating in the battery producer responsibility or-
40 ganization;

41 (c) The contact information for a covered producer participating in the battery producer
42 responsibility organization; or

43 (d) The ownership of a covered producer participating in the battery producer responsi-
44 bility organization.

45 **SECTION 7. Convenient and equitable service.** (1) A battery producer responsibility or-

1 **ganization shall provide convenient and equitable service throughout this state as provided**
2 **in this section, including to rural areas and lower-income and other historically underserved**
3 **populations.**

4 **(2) For portable batteries, convenient and equitable service must include a network of**
5 **collection sites distributed to ensure that 95 percent of the residents of this state are within**
6 **15 miles of a collection site, and must also include:**

7 **(a) At least one collection site in each county;**

8 **(b) At least one collection site in each city with a population of at least 4,000 but less**
9 **than 10,000;**

10 **(c) In each city with a population of at least 10,000 but less than 200,000, at least one**
11 **collection site, plus one additional collection site for every additional 20,000 residents of the**
12 **city over 10,000; and**

13 **(d) In each city with a population of 200,000 or greater, at least 10 collection sites, plus**
14 **one additional collection site for every additional 50,000 residents of the city over 200,000.**

15 **(3)(a) A collection site for a county may be the same as a collection site for a city in the**
16 **county.**

17 **(b) For purposes of calculating the population of a city within a metropolitan service**
18 **district established under ORS chapter 268, the population of any adjacent unincorporated**
19 **area of a county that is within the metropolitan service district shall be included in the**
20 **population of the city.**

21 **(c) Collection sites shall be staffed and open to the public at a frequency adequate to**
22 **meet the needs of the area being served.**

23 **(d) A battery producer responsibility organization may provide collection service jointly**
24 **with another battery producer responsibility organization.**

25 **(4) The department may waive the requirements of subsections (2) and (3) of this section**
26 **with respect to a county or city if a proposed battery producer responsibility program plan**
27 **demonstrates to the department's satisfaction that alternative collection methods would**
28 **provide substantially equivalent collection convenience.**

29 **(5) A collection site described in subsections (2) and (3) of this section shall:**

30 **(a) Accept each brand and type of covered battery, other than medium format batteries,**
31 **at no cost to covered entities;**

32 **(b) Use appropriate containers provided by the battery producer responsibility organiza-**
33 **tion for the collection of covered batteries;**

34 **(c) Be staffed by adequately trained employees;**

35 **(d) Display signs or other visual aids provided by the battery producer responsibility or-**
36 **ganization to inform covered entities and staff on how to properly and safely collect and**
37 **handle discarded covered batteries; and**

38 **(e) Provide covered entities with educational materials provided by a battery producer**
39 **responsibility organization for the purpose of promoting safe and secure handling of covered**
40 **batteries.**

41 **(6) A battery producer responsibility organization shall:**

42 **(a) Provide fair financial compensation to collection sites calculated to cover the costs**
43 **of collecting, storing, managing and transporting covered batteries; and**

44 **(b) Enter into agreements with all willing transfer stations, landfills and material recov-**
45 **ery facilities that are covered under a solid waste disposal permit issued by the Department**

1 of Environmental Quality to collect covered batteries. Covered batteries collected pursuant
2 to an agreement described in this paragraph must be collected in accordance with all appli-
3 cable laws, the approved battery producer responsibility program plan and battery safety
4 training provided to collection workers.

5 (7)(a) A battery producer responsibility organization shall provide for collection of me-
6 dium format and damaged or defective batteries by providing at no charge to covered enti-
7 ties, in each county of this state:

8 (A) Collection by trained individuals at one or more household hazardous waste collection
9 sites; or

10 (B) Collection by trained individuals at one or more collection events held in the county
11 each year.

12 (b) A battery producer responsibility organization is responsible for all costs associated
13 with the collection of medium format and damaged or defective batteries, including the costs
14 of providing containers at collection sites.

15 (8) A battery producer responsibility organization shall accept for processing and further
16 management, at no cost to the collection service providers, covered batteries collected
17 through on-route battery collection service administered by a local government.

18 **SECTION 8. Responsible management.** (1) A battery producer responsibility organization
19 shall, in compliance with all applicable laws, ensure that the organization's battery producer
20 responsibility program uses responsible management in collecting, transporting, processing,
21 recycling or otherwise managing covered batteries and materials from covered batteries.
22 **Responsible management includes:**

23 (a) Adequate record keeping;

24 (b) Tracking the fate of covered batteries;

25 (c) Conducting performance audits and inspections;

26 (d) Identifying and, when available, utilizing opportunities for reuse and refurbishment;

27 (e) Complying with worker health and safety requirements;

28 (f) Ensuring that materials from covered batteries are delivered to responsible end mar-
29 kets;

30 (g) Maintaining liability insurance and other financial assurances; and

31 (h) Carrying out other practices as may be adopted by rule by the Environmental Quality
32 Commission.

33 (2) A battery producer responsibility organization shall ensure that all collection sites
34 and processors that manage covered batteries or covered battery materials collected through
35 the battery producer responsibility program use responsible management with respect to
36 covered batteries and covered battery materials.

37 **SECTION 9. Public education and awareness.** (1) A battery producer responsibility or-
38 ganization must develop educational resources and conduct public awareness activities
39 across multiple types of media to advertise and promote, on a regular basis, recycling of
40 covered batteries and collection opportunities statewide. In addition, a battery producer re-
41 sponsibility organization must:

42 (a) Establish a toll-free telephone number and a website address that a covered entity
43 may use to contact the battery producer responsibility organization to provide feedback
44 about the battery producer responsibility program and to obtain information about the pro-
45 gram, including:

- 1 (A) The location of collection sites;
- 2 (B) The time and location of collection events; and
- 3 (C) Other collection services.

4 (b)(A) Develop educational materials, including educational web-based content, press re-
5 leases, advertisements and promotional materials.

6 (B) Educational materials must:

7 (i) Be provided at sites that primarily sell covered products, collection sites and sites that
8 accept damaged or defective batteries; and

9 (ii) Include materials that address the needs of rural, lower-income and other historically
10 underserved communities.

11 (c) Conduct a biennial survey to measure public awareness, using questions and meth-
12 odology that have been approved by the Department of Environmental Quality.

13 (2) A battery producer responsibility organization shall coordinate with other battery
14 producer responsibility organizations under this section to ensure that program users can
15 easily identify, understand and access the services provided by all battery producer respon-
16 sibility programs that are operational in this state. At a minimum, all of the battery pro-
17 ducer responsibility programs that are operational in this state must provide a single
18 toll-free telephone number and a single website address that a covered entity may use to
19 contact battery producer responsibility organizations and to acquire information about bat-
20 tery producer responsibility programs.

21 **SECTION 10. Annual report.** (1) A battery producer responsibility organization shall
22 submit to the Department of Environmental Quality, in a form and manner prescribed by the
23 department, an annual report on the development, implementation and operation of the
24 battery producer responsibility program that contains information required by the depart-
25 ment to evaluate whether the program complied with the requirements of sections 2 to 17
26 of this 2025 Act. The annual report must include:

27 (a) A list of covered producers participating in the battery producer responsibility pro-
28 gram, the brands associated with each covered producer and the date the covered producer
29 began participating in the organization.

30 (b) The amount, by weight, chemistry and method of collection, of covered batteries col-
31 lected under the program.

32 (c) The amount, by weight and chemistry, of covered batteries collected at each col-
33 lection site.

34 (d) An assessment of whether the battery producer responsibility organization imple-
35 mented the program in accordance with the plan approved under section 5 of this 2025 Act.

36 (e) A description of whether the program provided responsible management of covered
37 batteries from collection to final disposition and an affirmation that all covered batteries
38 were responsibly managed and delivered to responsible end markets.

39 (f) A list of collection sites, processors, transporters or other service providers involved
40 in battery management and used by the program during the preceding program year, and the
41 responsible end markets used by the program during the preceding program year.

42 (g) A summary of public awareness and education activities performed by the battery
43 producer responsibility organization, alone or in coordination with one or more battery pro-
44 ducer responsibility organizations, sufficient to demonstrate to the department that the or-
45 ganization has satisfied the requirements of section 9 of this 2025 Act.

1 (h) The results of the most recent biennial survey conducted under section 9 of this 2025
2 Act.

3 (i)(A) An analysis of whether the battery producer responsibility organization met per-
4 formance goals proposed by the battery producer responsibility program plan or adopted by
5 the Environmental Quality Commission; and

6 (B) If the battery producer responsibility organization did not meet performance goals,
7 a description of actions the battery producer responsibility organization will take to meet
8 those goals.

9 (j) A summary of annual expenditures, including amounts aggregated by categories
10 specified by the department, and a report by an independent certified public accountant, re-
11 tained by the battery producer responsibility organization at the battery producer responsi-
12 bility organization's expense, on the accountant's audit of the battery producer responsibility
13 organization's financial statements.

14 (k) An analysis of program costs and expenditures incurred in this state, including an
15 analysis of the program's expenses, such as collection, transportation, recycling, education
16 and administrative overhead.

17 (2) The department shall review and approve a report submitted under this section within
18 90 days of receiving the report, provided that the department determines that the report
19 satisfies the requirements of this section. If the department does not approve the report, the
20 department shall provide the battery producer responsibility organization with written notice
21 of the reasons for the rejection. A battery producer responsibility organization shall submit
22 a revised report as required by the department.

23 (3) Subject to section 16 of this 2025 Act, the department may make reports submitted
24 under this section available to the public.

25 (4) Upon the request of the department, a battery producer responsibility organization
26 shall provide to the department:

27 (a) A description of each type of material sent to each processor;

28 (b) The method of processing used by each processor; and

29 (c) The responsible end market for each material managed under the program.

30 **SECTION 11. Membership fees.** (1)(a) A battery producer responsibility organization shall
31 establish a schedule of membership fees to be paid by covered producers participating in the
32 organization. Membership fees established pursuant to this section must be sufficient to
33 meet the financial obligations of the organization under sections 2 to 17 of this 2025 Act.

34 (b) A battery producer responsibility organization and any service provider that contracts
35 with a battery producer responsibility organization may not charge a fee to a covered entity
36 for any services necessary to satisfy the battery producer responsibility organization's obli-
37 gations under sections 2 to 17 of this 2025 Act. A covered producer may not charge a fee to
38 a consumer at the point of sale to cover the cost of meeting the covered producer's obli-
39 gations under sections 2 to 17 of this 2025 Act.

40 (2) The schedule of membership fees may incentivize covered producers to continually
41 reduce the environmental and human health impacts of covered products. A fee schedule
42 that satisfies the requirements of this section may include a fee structure that:

43 (a) Encourages designs intended to facilitate reuse and recycling of covered batteries;

44 (b) Encourages the use of recycled content in covered batteries;

45 (c) Discourages the use of materials that increase system costs of managing covered

1 batteries; or

2 (d) Encourages other design attributes that reduce the environmental impacts of covered
3 batteries.

4 **SECTION 12. Enforcement.** (1) The Department of Environmental Quality shall have the
5 power to enter upon and inspect, at any reasonable time, any public or private property,
6 premises or place for the purpose of investigating either an actual or suspected violation of
7 sections 2 to 17 of this 2025 Act or rules adopted under sections 2 to 17 of this 2025 Act.

8 (2) A battery producer responsibility organization shall retain all records related to the
9 implementation and administration of a battery producer responsibility program for not less
10 than three years from the time the record was created and make the records available for
11 inspection by the department upon request.

12 (3) In accordance with the applicable provisions of ORS chapter 183 relating to contested
13 case proceedings, the department may issue an order requiring compliance with the pro-
14 visions of sections 2 to 17 of this 2025 Act.

15 (4) In accordance with the applicable provisions of ORS chapter 183 relating to contested
16 case proceedings, and in accordance with ORS 468.130 and rules adopted pursuant to ORS
17 468.130, the department may issue civil penalties for violations of the provisions of sections
18 2 to 17 of this 2025 Act and rules adopted under sections 2 to 17 of this 2025 Act. All penalties
19 recovered for violations of sections 2 to 17 of this 2025 Act and rules adopted under sections
20 2 to 17 of this 2025 Act shall be paid into the State Treasury and credited to the Battery
21 Producer Responsibility Fund established under section 14 of this 2025 Act.

22 (5) The department may issue an order under subsection (3) of this section to suspend
23 or revoke a battery producer responsibility program plan if the department determines that:

24 (a) A violation or repeated violations of sections 2 to 17 of this 2025 Act present a risk
25 to the environment or public health; or

26 (b) A violation has had a material impact on the implementation and administration of
27 the battery producer responsibility program plan.

28 **SECTION 13. Fees.** (1) The Environmental Quality Commission shall establish by rule the
29 following fees for the purpose of paying the costs of administering, implementing and en-
30 forcing sections 2 to 17 of this 2025 Act:

31 (a) A plan review fee for reviewing a battery producer responsibility program plan sub-
32 mitted under section 4 of this 2025 Act.

33 (b) An annual fee for expenses associated with the ongoing costs of administering
34 sections 2 to 17 this 2025 Act.

35 (2) Each battery producer responsibility organization that operates a battery producer
36 responsibility program in this state is responsible for paying the fees established by this
37 section. If more than one battery producer responsibility organization operates a battery
38 producer responsibility program in this state, the fee established under subsection (1)(b) of
39 this section shall be paid in equal parts by each battery producer responsibility organization
40 operating in this state.

41 (3) Fees established under subsection (1) of this section must be reasonably calculated
42 and adequate to cover the costs of administering, implementing and enforcing sections 2 to
43 17 of this 2025 Act.

44 (4) The department shall deposit fee moneys collected pursuant to this section into the
45 Battery Producer Responsibility Fund established under section 14 of this 2025 Act.

1 (5) The department may not charge a plan review or annual fee that exceeds the fees
2 established by the Environmental Quality Commission under this section.

3 **SECTION 14. Battery Producer Responsibility Fund.** (1) The Battery Producer Responsi-
4 bility Fund is established in the State Treasury, separate and distinct from the General Fund.
5 Interest earned by the Battery Producer Responsibility Fund shall be credited to the fund.

6 (2) The Battery Producer Responsibility Fund shall consist of:

7 (a) Amounts deposited in the fund by the Department of Environmental Quality under
8 section 13 of this 2025 Act;

9 (b) Amounts credited to the fund under section 12 of this 2025 Act;

10 (c) Amounts appropriated or otherwise transferred to the fund by the Legislative As-
11 sembly; and

12 (d) Other amounts deposited in the fund from any other source.

13 (3) Moneys in the Battery Producer Responsibility Fund are continuously appropriated
14 to the Department of Environmental Quality for the purpose of carrying out sections 2 to
15 17 of this 2025 Act.

16 **SECTION 15. Antitrust immunity.** The Legislative Assembly declares that the collab-
17 oration of covered producers through battery producer responsibility organizations to de-
18 velop and implement battery producer responsibility program plans is in the best interests
19 of the public. Therefore, the Legislative Assembly declares its intent that participating in a
20 battery producer responsibility organization to implement a battery producer responsibility
21 program plan as required by sections 2 to 17 of this 2025 Act shall be exempt from state
22 antitrust laws. The Legislative Assembly further declares its intent to provide immunity for
23 participating in a battery producer responsibility organization to implement a battery pro-
24 ducer responsibility program plan as required by sections 2 to 17 of this 2025 Act from federal
25 antitrust laws. This section does not authorize any person to engage in activities or to
26 conspire to engage in activities that constitute per se violations of state or federal antitrust
27 laws that are not authorized under sections 2 to 17 of this 2025 Act.

28 **SECTION 16. Confidentiality.** A covered producer or battery producer responsibility or-
29 ganization that submits information or records to the Department of Environmental Quality
30 under sections 2 to 17 of this 2025 Act may request that the information or records be made
31 available only for the confidential use of the department. The department shall consider the
32 request and weigh the harm suffered by the person making the request against the public
33 interest in disclosure. Information or records for which the department grants a request
34 under this section are confidential and not subject to public disclosure under ORS 192.311 to
35 192.478, except that the department may disclose summarized information or aggregated data
36 if the information or data does not directly or indirectly identify the confidential information
37 of a specific covered producer or battery producer responsibility organization.

38 **SECTION 17. Rules.** The Environmental Quality Commission may adopt any rules neces-
39 sary for the effective administration of sections 2 to 17 of this 2025 Act.

40 **SECTION 18.** ORS 459.995, as amended by section 6, chapter 73, Oregon Laws 2023, is amended
41 to read:

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

44 (a) Any person who violates ORS 459.205, 459.270, 459.272, 459.386 to 459.405, 459.485, 459.705
45 to 459.790, 459A.005 to 459A.620, 459A.310 to 459A.335, 459A.860 to 459A.975 or 646A.080, or any

1 rule or order of the Environmental Quality Commission pertaining to the disposal, collection, stor-
 2 age or reuse or recycling of solid wastes, as defined by ORS 459.005, or any rule or order pertaining
 3 to the disposal, storage or transportation of waste tires, as defined by ORS 459.705, or any rule or
 4 order pertaining to the sale of novelty items that contain encapsulated liquid mercury or any rule
 5 or order pertaining to compact fluorescent lamps or linear fluorescent lamps, as defined by ORS
 6 459.485, incurs a civil penalty not to exceed \$25,000 per day for each day of the violation.

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

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

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

17 (e) Any retailer that violates the provisions of ORS 459A.156 or 459A.825 (1) or (2)(b) incurs a
 18 civil penalty not to exceed \$100 per day for each day of the violation.

19 (f) Any producer or renovator that violates the provisions of ORS 459A.156 or 459A.825 (1) in-
 20 curs a civil penalty not to exceed \$1,000 per day for each day of the violation.

21 (g) Any stewardship organization that violates the provisions of ORS 459A.150 to 459A.189,
 22 459A.825 (2)(a), 459A.827, 459A.830 to 459A.837 or 459A.842 incurs a civil penalty not to exceed
 23 \$1,000 per day for each day of the violation.

24 (h) Any food vendor that violates ORS 459.468 incurs a civil penalty not to exceed \$100 for each
 25 day of the violation.

26 (i) Any person that violates ORS 459.471 or 459.474 incurs a civil penalty not to exceed \$500
 27 per day for each day of the violation.

28 **(j)(A) Except as provided in subparagraph (B) of this paragraph, a covered producer or**
 29 **battery producer responsibility organization that violates sections 2 to 17 of this 2025 Act**
 30 **incurs a civil penalty not to exceed \$1,000 per day for each day of the violation.**

31 **(B) A covered producer that fails to satisfy the requirement to join a battery producer**
 32 **responsibility organization under section 2 of this 2025 Act incurs a civil penalty not to ex-**
 33 **ceed \$10,000 for each day that covered products that the covered producer is responsible for**
 34 **are sold in this state.**

35 **(k) Any person that violates section 20 of this 2025 Act incurs a civil penalty not to ex-**
 36 **ceed \$500 for each violation. Each removable lithium-ion battery that is disposed of improv-**
 37 **erly is a separate violation.**

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

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

44 **SECTION 19. Section 20 of this 2025 Act is added to and made a part of ORS 459.205 to**
 45 **459.385.**

