

House Bill 3780

Sponsored by Representative LEVY E

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

Digest: This Act takes newspaper out of some recycling laws. (Flesch Readability Score: 75.5).
Removes newspaper from packaging, printing and writing paper and food serviceware producer responsibility laws.
Declares an emergency, effective on passage.

A BILL FOR AN ACT

Relating to producer responsibility; creating new provisions; amending ORS 459A.863, 459A.866 and 459A.884; and declaring an emergency.

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

SECTION 1. ORS 459A.863 is amended to read:

459A.863. As used in ORS 459A.860 to 459A.975:

(1) "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.

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

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

(A) Receives source separated commingled recyclable materials that are collected commingled from a collection program providing the opportunity to recycle; and

(B) Separates the recyclable materials described in subparagraph (A) of this paragraph into marketable commodities or streams of materials that are intended for use or further processing by others.

(b) "Commingled recycling processing facility" does not include:

(A) Scrap metal recycling facilities;

(B) Scrap automotive or appliance recycling facilities;

(C) Full-service redemption centers or dealer redemption centers, as those terms are defined in ORS 459A.700, and recycling facilities owned and operated by a distributor cooperative established under ORS 459A.718;

(D) Recycling facilities handling covered electronic devices, as defined in ORS 459A.305;

(E) Recycling processing facilities that process only noncommingled, source separated recyclable material from commercial entities;

(F) Recycling processing facilities that recover commingled recyclable material primarily from the construction and demolition debris waste stream;

(G) Recycling depots;

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.

(H) Recycling reload facilities; or

(I) Limited sort facilities, as defined by rule by the Environmental Quality Commission.

(4) "Contaminant" means:

(a) A material set out for recycling collection that is not properly prepared and on the list of materials accepted for recycling collection by a recycling collection program; or

(b) A material shipped to a recycling end market that is not accepted or desired by that end market.

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

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

(A) Packaging;

(B) Printing and writing paper; and

(C) Food serviceware.

(b) "Covered product" does not include:

(A) A beverage container, as defined in ORS 459A.700.

(B) Bound books.

(C) Napkins, paper towels or other paper intended to be used for cleaning or the absorption of liquids.

(D) Rigid pallets used as the structural foundation for transporting goods lifted by a forklift, pallet jack or similar device.

(E) Specialty packaging items that are used exclusively in industrial or manufacturing processes, including but not limited to:

(i) Cores and wraps for rolls of packaging sold by a mill to a packaging converter or food processor; and

(ii) Trays, whether designed for a single use or multiple uses, used for the transport of component parts from a parts supplier to a manufacturer that assembles those parts.

(F) Liquified petroleum gas containers that are designed to be refilled.

(G) A material that the producer demonstrates is exempt under ORS 459A.869.

(H) Pallet wrap or similar packaging used to secure a palletized load if added by a person that is not the producer of the palletized covered products.

(I) Packaging related to containers for architectural paint, as defined in ORS 459A.822, that has been collected by a producer responsibility organization under the program established under ORS 459A.820 to 459A.855.

(J) Any item that is not ultimately discarded inside this state, whether for purposes of recovery or disposal.

(K) Items sold on a farm or used on a farm, including items used for farm use, as defined in ORS 215.203, or for processing on a farm, provided that an item used on a farm is not subsequently sold at a retail establishment that is not located on a farm.

(L) Items used by a nursery licensed under ORS 571.055 that generates the majority of the nursery's revenue through the sale of nursery stock, as defined in ORS 571.005, provided that the items are not sold through retail sales.

(M) Packaging and paper products sold or supplied in connection with:

(i) Prescription drugs as defined in ORS 689.005;

(ii) Nonprescription drugs as defined in ORS 689.005;

(iii) Drugs marketed under a brand name as defined in ORS 689.515; or

(iv) Drugs marketed under a generic name as defined in ORS 689.515.

(N) Packaging and paper products sold or supplied in connection with drugs that are used for animal medicines, including but not limited to parasiticide drugs for animals.

(O) Packaging and paper products sold or supplied in connection with:

(i) Infant formula as defined in 21 U.S.C. 321(z);

(ii) Medical food as defined in 21 U.S.C. 360ee(b)(3); or

(iii) Fortified oral nutritional supplements used for individuals who require supplemental or sole source nutrition to meet nutritional needs due to special dietary needs directly related to cancer, chronic kidney disease, diabetes, malnutrition, or failure to thrive, as those terms are defined as by the International Classification of Diseases, Tenth Revision, or other medical conditions as determined by the commission.

(P) Wine and spirit containers for which a refund value is established under Oregon law.

(Q) Packaging for products:

(i) That are required under 40 C.F.R. 156.140, or other federal regulation pertaining to toxic or hazardous materials, to state on the label or container that the packaging should not be recycled or should be disposed of in a manner other than recycling; or

(ii) Identified by the commission by rule as product that is required by law to state on the label or container that the packaging should not be recycled or should be disposed of in a manner other than recycling.

(R) Any other material, as determined by the commission by rule, after consultation with the Oregon Recycling System Advisory Council.

(7) "Food serveware" means paper or plastic plates, wraps, cups, bowls, pizza boxes, cutlery, straws, lids, bags, aluminum foil or clamshells or similar containers:

(a) That are generally intended for single use; and

(b) That are sold to a retailer or a dine-in food establishment or a take-out food establishment, regardless of whether the item is used to prepackage food for resale, is filled on site for food ordered by a customer or is resold as is.

(8) "Large producer" means a producer that is among the 25 largest producers of covered products based on market share.

(9) "Licensee" means a person that is licensed by a brand and manufactures a covered product or a packaged item under that brand.

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

(11) "Local government" means:

(a) A city;

(b) A county; or

(c) A metropolitan service district.

(12) "Local government's service provider" means:

(a) A collection service franchise holder under ORS 459A.085;

(b) Any person authorized by a city or county to provide recycling collection services described in subsection (25)(a) to (d) of this section; or

(c) Any person authorized by a metropolitan service district to provide recycling collection services described in subsection (25)(d) of this section.

(13) "Market share" means a producer's percentage of all covered products sold in or into this

1 state during a specified time period, as calculated in accordance with methods established by the
2 commission by rule.

3 (14) "Mechanical recycling" means a form of recycling that does not change the basic molecular
4 structure of the material being recycled.

5 (15) "Metropolitan service district" means a metropolitan service district established under ORS
6 chapter 268.

7 (16) "Nonprofit organization" means an organization or group of organizations described in
8 section 501(c)(3) of the Internal Revenue Code that is exempt from income tax under section 501(a)
9 of the Internal Revenue Code.

10 (17) "Opportunity to recycle" has the meaning given that term in ORS 459A.005.

11 (18)(a) "Packaging" means:

12 (A) Materials used for the containment or protection of products, including but not limited to
13 paper, plastic, glass or metal or a mixture thereof;

14 (B) Single-use bags, including but not limited to shopping bags; and

15 (C) Nondurable materials used in storage, shipping or moving, including but not limited to
16 packing materials, moving boxes, file boxes and folders.

17 (b) "Packaging" does not include:

18 (A) Food serviceware; or

19 (B) Sharps, as defined in ORS 459.386.

20 (19) "Person" has the meaning given that term in ORS 459.005.

21 (20)(a) "Printing and writing paper" includes, but is not limited to, [*newspaper*,] magazines,
22 flyers, brochures, booklets, catalogs, telephone directories and paper used for copying, writing or
23 other general use.

24 **(b) "Printing and writing paper" does not include newspaper.**

25 (21) "Processor" means a person that owns or operates a commingled recycling processing fa-
26 cility.

27 (22) "Producer" means a person that is determined to be the producer of a covered product un-
28 der ORS 459A.866.

29 (23) "Producer responsibility organization" means a nonprofit organization established by a
30 producer or group of producers to administer a producer responsibility program.

31 (24) "Producer responsibility program" means a statewide program for the responsible manage-
32 ment of covered products that is administered by a producer responsibility organization pursuant to
33 a plan approved by the Department of Environmental Quality under ORS 459A.878.

34 (25) "Recycling collection" means the act or process of gathering recyclable materials by:

35 (a) On-route residential collection from the generator at the place of generation;

36 (b) On-site nonresidential collection from the generator at the place of generation;

37 (c) Multifamily on-route residential collection from each multifamily dwelling that has five or
38 more units;

39 (d) Recycling depots at a disposal site or another designated location that is more convenient
40 to the population being served and expanded depots as described in ORS 459A.007; or

41 (e) Other collection methods included in an approved producer responsibility program plan.

42 (26) "Recycling depot" means a location where recyclable materials are accepted from the public
43 or commercial businesses and transported to a location for processing or to an end market.

44 (27) "Recycling reload facility" means a facility other than a recycling depot where recyclable
45 materials are received, consolidated and made ready for transport to another location for processing

1 or to a responsible end market.

2 (28) "Recycling system" means all aspects of the programs and participants that have a role in
3 Oregon's statewide recycling structure, including producers of products sold in or into Oregon,
4 generators of recyclable materials, governments that regulate materials management programs,
5 businesses that collect and process recyclable materials and persons that receive recyclable mate-
6 rials to convert to new feedstock or products.

7 (29) "Responsible end market" means a materials market in which the recycling or recovery of
8 materials or the disposal of contaminants is conducted in a way that benefits the environment and
9 minimizes risks to public health and worker health and safety.

10 (30) "Responsible management" means the handling, tracking and disposition of covered pro-
11 ducts from the point of collection through the final destination of the collected material in a way
12 that benefits the environment and minimizes risks to public health and worker health and safety.

13 (31) "Responsible recycling" means the handling of covered products for recycling and removal
14 of contaminants by a certified or permitted processor and disposition to a responsible end market.

15 (32) "Small producer" means a producer that:

16 (a) Is a nonprofit organization;

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

18 (c) Has a gross revenue of less than \$5 million for the organization's most recent fiscal year;

19 (d) Sold in or into Oregon less than one metric ton of covered products for use in this state in
20 the most recent calendar year;

21 (e) Is a manufacturer of a beverage sold in a beverage container, as those terms are defined in
22 ORS 459A.700, that sold in or into Oregon less than five metric tons of covered products, including
23 but not limited to secondary and tertiary packaging for beverage containers, for use in this state in
24 the most recent calendar year;

25 (f)(A) Is a restaurant, food cart or similar business establishment that primarily sells to members
26 of the public food that is generally intended to be consumed immediately and without the need for
27 further preparation, either on or off the premises; and

28 (B) Is not a producer of food serviceware as described in ORS 459A.866; or

29 (g) Operates a single retail sales establishment, has no online sales and is not supplied or op-
30 erated as part of a franchise or a chain.

31 (33) "Specifically identified material" means a material or covered product identified by the de-
32 partment under ORS 459A.917.

33 (34) "Uniform statewide collection list" means the list of materials established in accordance
34 with the requirements of ORS 459A.914 (4).

35 **SECTION 2.** ORS 459A.866 is amended to read:

36 459A.866. For purposes of ORS 459A.860 to 459A.975, the producer of a covered product shall
37 be determined as follows:

38 (1)(a) For items sold in packaging at a physical retail location in this state:

39 (A) If the item is sold in packaging under the manufacturer's own brand or is sold in packaging
40 that lacks identification of a brand, the producer of the packaging is the person that manufactures
41 the packaged item;

42 (B) If the item is manufactured by a person other than the brand owner, the producer of the
43 packaging is the person that is the licensee of a brand or trademark under which a packaged item
44 is used in a commercial enterprise, sold, offered for sale or distributed in or into this state, whether
45 or not the trademark is registered in this state; or

(C) If there is no person described in subparagraphs (A) and (B) of this paragraph within the United States, the producer of the packaging is the person that imports the packaged item into the United States for use in a commercial enterprise that sells, offers for sale or distributes the item in this state.

(b) For items sold or distributed in packaging in or into this state via remote sale or distribution:

(A) The producer of packaging used to directly protect or contain the item is the same as the producer for purposes of paragraph (a) of this subsection.

(B) The producer of packaging used to ship the item to a consumer is the person that packages and ships the item to the consumer.

(c) For all other packaging that is a covered product, the producer of the packaging is the person that first distributes the packaged item in or into this state.

(2)(a) For printing and writing paper that is a magazine, [newspaper,] catalog, telephone directory or similar publication, the producer is the publisher.

(b) For printing and writing paper not described in paragraph (a) of this subsection, the producer is:

(A) The person that manufactures the printing and writing paper under the manufacturer's own brand;

(B) If the printing and writing paper is manufactured by a person other than the brand owner, the person that is the owner or licensee of a brand or trademark under which the printing and writing paper is used in a commercial enterprise, sold, offered for sale or distributed in or into this state, whether or not the trademark is registered in this state; or

(C) If there is no person described in subparagraphs (A) and (B) of this paragraph within the United States, the person that imports the printing and writing paper into the United States for use in a commercial enterprise that sells, offers for sale or distributes the printing and writing paper in this state.

(3) The producer of food serviceware is the person that first sells the food serviceware in or into this state.

SECTION 3. ORS 459A.884 is amended to read:

459A.884. (1) A producer responsibility organization shall establish a schedule of membership fees to be paid by members of the organization. Membership fees established pursuant to this section must be sufficient to meet the financial obligations of the organization under ORS 459A.860 to 459A.975. Membership fees must be designed to differentiate between types of covered products, and the materials and formats that comprise those covered products. Membership fees charged for different covered product types, materials and formats must be proportional to the costs to the producer responsibility organization for that covered product type, material or format.

(2) A schedule established under this section must establish material-specific base fee rates for all covered products sold or distributed in or into this state by a member of the producer responsibility organization. The base fee paid by each producer member shall be calculated by multiplying the material-specific base fee rate by the total amount of covered products of each material sold or distributed by the producer in or into this state.

(3) Covered products sold or distributed in or into this state that are not accepted by recycling collection programs in this state shall be assessed base fee rates as follows:

(a) First, the average base fee rates for covered products described in this subsection must be higher than the average for covered products that are accepted by recycling collection programs in

1 this state.

2 (b) Second, provided that the requirements of paragraph (a) of this subsection are satisfied, the
3 base fee rate shall be approximately proportional to the covered products' relative contribution to
4 the financial obligations of the producer responsibility organization.

5 (4) In addition to the base fees described in subsections (2) and (3) of this section, a producer
6 responsibility organization's membership fee schedule must incentivize producers to continually re-
7 duce the environmental and human health impacts of covered products by offering fee adjustments
8 to producers that make or have made changes to the ways in which they produce, use and market
9 covered products. Fee adjustments developed under this subsection must include lower fees for
10 covered products with a lower environmental impact and higher fees for covered products with a
11 higher environmental impact. In establishing the criteria for the graduated fee structure, a producer
12 responsibility organization must consider factors that include, but are not limited to:

13 (a) The post-consumer content of the material, if the use of post-consumer content in the covered
14 product is not prohibited by federal law;

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

16 (c) The producer's choice of material;

17 (d) Life cycle environmental impacts, as demonstrated by an evaluation performed in accordance
18 with ORS 459A.944; and

19 (e) The recycling rate of the material relative to the recycling rate of other covered products.

20 (5) Notwithstanding subsections (2) to (4) of this section, a producer responsibility organization
21 may propose to the Department of Environmental Quality in a plan or plan amendment an alterna-
22 tive membership fee structure. The department may approve an alternative membership fee structure
23 if the department determines that the structure:

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

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

27 (6) Notwithstanding subsections (2) to (4) of this section, a producer responsibility organization
28 shall establish uniform membership fees for members that had a gross revenue of less than \$10
29 million for the organization's most recent fiscal year, or sold in or into Oregon less than five metric
30 tons of covered products for use in this state in the most recent calendar year.

31 (7) A producer responsibility organization shall accept the value of print and online advertising
32 services in lieu of all or a portion of a membership fee described in this section from members that
33 are *[newspaper or]* magazine publishers. The producer responsibility organization may consider the
34 in-state reach of the advertising when determining the value of the advertising.

35 **SECTION 4. It is the intent of the Legislative Assembly that the amendments to ORS**
36 **459A.863, 459A.866 and 459A.884 by sections 1 to 3 of this 2025 Act remove any requirements**
37 **pertaining to newspaper and newspaper producers from ORS 459A.860 to 459A.975. If this**
38 **2025 Act becomes effective after July 1, 2025, any enforcement action initiated by the De-**
39 **partment of Environmental Quality against any person for a violation of ORS 459A.860 to**
40 **459A.975, with respect to newspaper or newspaper producers, occurring on or after July 1,**
41 **2025, and before the effective date of this 2025 Act, must be stayed or dismissed consistent**
42 **with this section.**

43 **SECTION 5. This 2025 Act being necessary for the immediate preservation of the public**
44 **peace, health and safety, an emergency is declared to exist, and this 2025 Act takes effect**
45 **on its passage.**

