

House Bill 3973

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 removes paint from a recycling law. (Flesch Readability Score: 82.3).

Removes the requirement that architectural paint be collected by a stewardship organization to be excluded from the definition of "covered product" under the packaging, printing and writing paper and food serviceware producer responsibility law.

Declares an emergency, effective on passage.

A BILL FOR AN ACT

Relating to paint; creating new provisions; amending ORS 459A.863; 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.

1 (H) Recycling reload facilities; or

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

3 (4) "Contaminant" means:

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

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

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

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

12 (A) Packaging;

13 (B) Printing and writing paper; and

14 (C) Food serviceware.

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

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

17 (B) Bound books.

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

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

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

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

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

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

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

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

32 (I) Packaging related to containers for architectural paint, as defined in ORS 459A.822[, *that has*
33 *been collected by a producer responsibility organization under the program established under ORS*
34 *459A.820 to 459A.855*].

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

37 (K) Items sold on a farm or used on a farm, including items used for farm use, as defined in ORS
38 215.203, or for processing on a farm, provided that an item used on a farm is not subsequently sold
39 at a retail establishment that is not located on a farm.

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

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

44 (i) Prescription drugs as defined in ORS 689.005;

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

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

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

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

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

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

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

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

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

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

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

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

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

(28) “Recycling system” means all aspects of the programs and participants that have a role in Oregon’s statewide recycling structure, including producers of products sold in or into Oregon, generators of recyclable materials, governments that regulate materials management programs, businesses that collect and process recyclable materials and persons that receive recyclable materials to convert to new feedstock or products.

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

(30) “Responsible management” means the handling, tracking and disposition of covered products from the point of collection through the final destination of the collected material in a way that benefits the environment and minimizes risks to public health and worker health and safety.

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

(32) “Small producer” means a producer that:

(a) Is a nonprofit organization;

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

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

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

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

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

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

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

(33) “Specifically identified material” means a material or covered product identified by the department under ORS 459A.917.

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

SECTION 2. It is the intent of the Legislative Assembly that the amendments to ORS 459A.863 by section 1 of this 2025 Act remove any requirements pertaining to architectural paint, as defined in ORS 459A.822, from ORS 459A.860 to 459A.975. If this 2025 Act becomes effective after July 1, 2025, any enforcement action initiated by the Department of Environmental Quality against any person for a violation of ORS 459A.860 to 459A.975, with respect to architectural paint, occurring on or after July 1, 2025, and before the effective date of this 2025 Act, must be stayed or dismissed consistent with this section.

SECTION 3. This 2025 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2025 Act takes effect on its passage.