

HB 4144 STAFF MEASURE SUMMARY

House Committee On Climate, Energy, and Environment

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Sub-Referral To: Joint Committee On Ways and Means

Meeting Dates: 2/5, 2/10

WHAT THE MEASURE DOES:

The measure prohibits covered producers from selling, offering for sale, or distributing batteries or battery-containing products in or into Oregon unless they participate in a battery producer responsibility organization (PRO) that successfully implements a battery producer responsibility program.

Detailed Summary:

Defines terms.

Requirement to participate in a battery producer responsibility organization

Prohibits covered producers from selling, offering for sale, or distributing in or into Oregon a covered product unless the covered producer participates in a battery PRO that successfully implements a battery producer responsibility program.

Plans for battery producer responsibility programs

Requires a battery PRO to submit a battery producer responsibility program implementation plan with specific information to the Oregon Department of Environmental Quality (DEQ) no later than September 1, 2028. Requires a battery producer responsibility program plan to be operational by July 1, 2029.

Approval of battery producer responsibility program plans

Requires DEQ to approve a battery producer responsibility program plan no later than 90 days after receiving it if the department determines that the plan meets certain requirements and that the battery PRO will successfully implement the program in accordance with the plan. Provides timelines and criteria for DEQ's approval, rejection, or conditional approval of plans, revised plans, and updated plans. Establishes conditions for DEQ to determine if a battery PRO must cease to operate a battery producer responsibility program in Oregon. Establishes that plans are valid for three years.

Changes to battery producer responsibility programs

Establishes criteria for a battery PRO to make changes to its battery producer responsibility program.

Convenient and equitable service

Requires a battery PRO to provide convenient and equitable service throughout Oregon, including a network of collection sites distributed to ensure that 95 percent of the residents of this state are within 15 miles of a collection site. Establishes criteria collection sites must meet and requirements for battery PROs. Establishes that a battery PRO is not required to provide financial compensation to collection sites operated by a retail establishment or for collection by third-party subscription services.

Responsible management

Requires battery PROs to use responsible management in collecting, transporting, processing, recycling, or otherwise managing covered batteries and materials from covered batteries.

Public education and awareness

Requires a battery PRO to develop educational resources and conduct public awareness activities across multiple types of media to advertise and promote recycling of covered batteries and collection opportunities statewide.

Annual report

Requires a battery PRO to submit an annual report, with certain content, to DEQ on the development, implementation, and operation of the battery producer responsibility program. Requires DEQ to review and approve the report if it meets certain requirements, and DEQ may make the report available to the public.

Fees and enforcement

Requires a battery PRO to establish a schedule of membership fees, sufficient to meet the PRO's financial obligations, to be paid by covered producers participating in the organization. Establishes: DEQ's enforcement mechanisms for activities related to this Act; records retention and compliance policies; penalties; and reasons DEQ may suspend or revoke a plan. Establishes fees for activities related to this Act. Requires battery PROs that operate battery producer responsibility programs in Oregon to pay program administration fees.

Battery Producer Responsibility Fund

Establishes the Battery Producer Responsibility Fund.

Antitrust immunity

Declares legislative intent that covered producers participating in a battery PRO to implement a battery producer responsibility program plan as required by this Act be exempt from state antitrust laws, and provide immunity from federal antitrust laws.

Confidentiality

Allows a covered producer or battery PRO that submits information or records to DEQ under requirements of the Act to request that the information or records be made available only for the confidential use of the department.

Rules and prohibitions

Allows the Environmental Quality Commission to adopt any rules necessary for the effective administration of this Act. Prohibits a person from knowingly disposing of a removable lithium-ion battery in mixed municipal solid waste and from disposing of a removable lithium-ion battery except by delivery to a battery producer responsibility program or a person accepting batteries on behalf of a battery producer responsibility program.

Report

Requires DEQ to review and evaluate studies or assessments—including but not limited to those carried out by Illinois, Vermont, and Washington—regarding whether products or batteries that are not currently covered by a state's battery extended producer responsibility law should be covered at a later date. Requires DEQ to submit report to the interim committees of the Legislative Assembly related to the environment no later than May 30, 2028.

- *FISCAL: May have fiscal impact, but no statement issued yet*
- *REVENUE: No revenue impact*

ISSUES DISCUSSED:

- Improper battery storage and disposal
- Types of batteries covered in Act
- Cost of responding to fires caused by batteries

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Extended producer responsibility (EPR) is an approach where producers of goods take back products or packaging that is difficult to recycle or that is hazardous, such as empty paint cans or used syringes. EPR programs can help reduce waste, reduce public expenditure on waste management, and lead to innovative product and packaging design.

Producer responsibility organizations (PRO), composed of producers or manufacturers, collect and manage their products at the end of the product's lifecycle. Rather than leave decisions about how to properly dispose of the products or packaging to consumers, the PROs setup collection sites or methods for collecting the materials, often at retail stores or in curbside recycling systems.

In 2009, Oregon became the first state in the nation to enact a law requiring architectural paint manufacturers to implement a program to reduce waste, increase reuse and recycling, and safely dispose of remaining unusable paint and other coatings. Oregon has other producer responsibility programs, including one for mattresses (via Senate Bill 1576, 2022), which established a statewide mattress product stewardship program for the recovery and recycling of used mattresses.

At least six states and the US Capital have battery EPR programs in place to collect certain types of batteries, ranging in size, type (rechargeable or not), and chemical makeup (for example, alkaline, carbon-zinc, lithium metal, or lithium-ion). Once the batteries are collected by producers, they are sent to recycling facilities.