

**SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION**

S.F. No. 3561

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DATE	D-PG	OFFICIAL STATUS
02/12/2024	11559	Introduction and first reading Referred to Environment, Climate, and Legacy
02/15/2024	11620	Author added Kupec
02/26/2024		Comm report: To pass as amended and re-refer to Commerce and Consumer Protection

1.1 A bill for an act

1.2 relating to solid waste; establishing Packaging Waste and Cost Reduction Act;

1.3 authorizing rulemaking; proposing coding for new law in Minnesota Statutes,

1.4 chapter 115A.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. [115A.144] SHORT TITLE.

1.7 Sections 115A.144 to 115A.1463 may be cited as the "Packaging Waste and Cost

1.8 Reduction Act."

1.9 Sec. 2. [115A.1441] DEFINITIONS.

1.10 Subdivision 1. **Scope.** For the purposes of sections 115A.144 to 115A.1463, the terms

1.11 in this section have the meanings given.

1.12 Subd. 2. **Advisory board.** "Advisory board" or "board" means the Producer

1.13 Responsibility Advisory Board established under section 115A.1446.

1.14 Subd. 3. **Brand.** "Brand" means a name, symbol, word, or mark that identifies a product

1.15 and attributes the product and its components, including packaging, to the brand owner.

1.16 Subd. 4. **Brand owner.** "Brand owner" means a person that owns or licenses a brand or

1.17 that otherwise has rights to market a product under the brand, whether or not the brand's

1.18 trademark is registered.

1.19 Subd. 5. **Collection rate.** "Collection rate" means the amount of a covered material by

1.20 covered materials type collected by service providers and transported for reuse, recycling,

1.21 or composting divided by the total amount of the type of a covered material by covered

2.1 materials type sold into the state by the relevant unit of measurement established in section
2.2 115A.1451.

2.3 Subd. 6. **Compostable material.** "Compostable material" means a covered material
2.4 that:

2.5 (1) meets, and is labeled to reflect that it meets, the American Society for Testing and
2.6 Materials Standard Specification for Labeling of Plastics Designed to be Aerobically
2.7 Composted in Municipal or Industrial Facilities (D6400) or its successor;

2.8 (2) meets, and is labeled to reflect that it meets, the American Society for Testing and
2.9 Materials Standard Specification for Labeling of End Items that Incorporate Plastics and
2.10 Polymers as Coatings or Additives with Paper and Other Substrates Designed to be
2.11 Aerobically Composted in Municipal or Industrial Facilities (D6868) or its successor;

2.12 (3) is comprised of only wood without any coatings or additives; or

2.13 (4) is comprised of only paper without any coatings or additives.

2.14 Subd. 7. **Composting.** "Composting" means the controlled microbial degradation of
2.15 source-separated compostable materials to yield a humus-like product.

2.16 Subd. 8. **Composting rate.** "Composting rate" means the amount of compostable covered
2.17 material that is managed through composting, divided by the total amount of compostable
2.18 covered material sold into the state by the relevant unit of measurement established in section
2.19 115A.1451.

2.20 Subd. 9. **Covered material.** "Covered material" means packaging and paper products
2.21 sold, offered for sale, or distributed in the state.

2.22 Subd. 10. **Covered materials type.** "Covered materials type" means a singular and
2.23 specific type of covered material that can be categorized based on distinguishing chemical
2.24 or physical properties, including properties that allow for a covered materials type to be
2.25 aggregated into a commonly defined discrete commodity category for purposes of reuse,
2.26 recycling, or composting, and based on similar uses in the form of a product or package.

2.27 Subd. 11. **Food packaging.** "Food packaging" means products supplied to or purchased
2.28 by a consumer for the express purpose of facilitating the storage, service, or consumption
2.29 of food or beverages, including plates, wraps, cups, bowls, boxes, utensils, straws, lids,
2.30 bags, foil, hinged or lidded containers, or similar containers that are sold to a retailer or a
2.31 food establishment, regardless of whether the item is used to prepackage food or beverages
2.32 for resale, filled on site with food or beverages ordered by a customer, or resold as is.

3.1 Subd. 12. **Infrastructure investment.** "Infrastructure investment" means an investment
3.2 by a producer responsibility organization that funds:

3.3 (1) equipment or facilities in which covered materials are prepared for recycling,
3.4 composting, or reuse;

3.5 (2) technical assistance to a producer to make changes in product design that reduce the
3.6 environmental impact of covered materials or that increase the recoverability or marketability
3.7 of covered materials for recycling, composting, or reuse; or

3.8 (3) the expansion or strengthening of demand for and use of covered materials by
3.9 responsible markets in the state or region.

3.10 Subd. 13. **Living wage.** "Living wage" means the minimum hourly wage necessary to
3.11 allow a person working 40 hours per week to afford basic needs as estimated by the
3.12 Department of Employment and Economic Development under section 116J.013.

3.13 Subd. 14. **Material recovery facility.** "Material recovery facility" means a facility that
3.14 receives, separates, and sells or otherwise distributes postconsumer materials for recycling
3.15 to responsible markets.

3.16 Subd. 15. **Needs assessment.** "Needs assessment" means an assessment conducted
3.17 pursuant to section 115A.1450. Except where the context requires otherwise, needs
3.18 assessment means the most recently completed needs assessment.

3.19 Subd. 16. **Packaging.** "Packaging" has the meaning given in section 115A.03 and
3.20 includes food packaging.

3.21 Subd. 17. **Paper product.** "Paper product" means a product made primarily from wood
3.22 pulp or other cellulosic fibers, except that paper product does not include bound books or
3.23 products that recycling or composting facilities will not accept because of the unsafe or
3.24 unsanitary nature of the paper product.

3.25 Subd. 18. **Plastic.** "Plastic" has the meaning given in section 115.01.

3.26 Subd. 19. **Postconsumer recycled content.** "Postconsumer recycled content" means
3.27 the portion of a product composed of postconsumer material, expressed as a percentage of
3.28 the total weight of the product.

3.29 Subd. 20. **Producer.** (a) "Producer" means the following:

3.30 (1) for paper products:

3.31 (i) that are magazines, newspapers, catalogs, telephone directories, or similar publications,
3.32 the producer is the publisher; and

4.1 (ii) that are other paper products, the producer is:

4.2 (A) the person that manufactures the paper product under the manufacturer's own brand;

4.3 (B) if the paper product is manufactured by a person other than the brand owner, the
4.4 producer of the paper product is the licensee of a brand or trademark under which the paper
4.5 product is used in a commercial enterprise, sold, offered for sale, or distributed in the state,
4.6 whether or not the trademark is registered in the state; or

4.7 (C) if there is no person described in subitem (A) or (B) located in the United States,
4.8 the producer is the person that imports the paper product into the United States for use in a
4.9 commercial enterprise that sells, offers for sale, or distributes the item in the state;

4.10 (2) for products other than paper products that are sold in packaging at a physical retail
4.11 location in this state:

4.12 (i) if the product is sold in packaging under the manufacturer's own brand, or is sold in
4.13 packaging that lacks identification of a brand, the producer is the person that manufactures
4.14 the product;

4.15 (ii) if the product is manufactured by a person other than the brand owner, the producer
4.16 is the licensee of a brand or trademark under which a packaged product is used in a
4.17 commercial enterprise, sold, offered for sale, or distributed in the state, whether or not the
4.18 trademark is registered in the state; or

4.19 (iii) if there is no person described in item (i) or (ii) located in the United States, the
4.20 producer is the person that imports the packaged product into the United States for use in
4.21 a commercial enterprise that sells, offers for sale, or distributes the product in the state;

4.22 (3) for products other than paper products sold or distributed in packaging in the state
4.23 via remote sale or distribution:

4.24 (i) if the packaging is used to directly protect or to indirectly contain the product, the
4.25 producer is the person that manufactures the packaged product;

4.26 (ii) if the packaging is used to ship the product or a group of products to a consumer,
4.27 the producer is the person that packages and ships the product or group of products; and

4.28 (iii) if the packaging is used to directly protect or to contain the product and no additional
4.29 packaging is used to ship the product, the producer is the person that manufactures the
4.30 packaged product; and

4.31 (4) for all other packaging, the producer is the person that first distributes the packaged
4.32 product in the state.

5.1 (b) Producer does not include a person that:

5.2 (1) annually sells, offers for sale, distributes, or imports in or into the state less than one
5.3 ton of covered material; and

5.4 (2) has a global gross revenue of less than \$2,000,000 for the person's most recent fiscal
5.5 year.

5.6 Subd. 21. **Producer responsibility organization.** "Producer responsibility organization"
5.7 means a nonprofit corporation that is tax exempt under chapter 501(c)(3) of the federal
5.8 Internal Revenue Code and that is created by a group of producers to implement activities
5.9 under this act.

5.10 Subd. 22. **Recycling.** "Recycling" has the meaning given in section 115A.03 except that
5.11 it does not include composting.

5.12 Subd. 23. **Recycling rate.** "Recycling rate" means the amount of covered material, in
5.13 aggregate or by individual covered materials type, managed through recycling in a calendar
5.14 year divided by the total amount of covered materials sold into the state by the relevant unit
5.15 of measurement established in section 115A.1451.

5.16 Subd. 24. **Responsible market.** "Responsible market" means a materials market that:

5.17 (1) recycles, composts, or otherwise recovers materials and disposes of contaminants in
5.18 a manner that protects the environment and minimizes risks to public health and worker
5.19 health and safety;

5.20 (2) complies with all applicable federal, state, and local statutes and rules governing
5.21 environmental, health, safety, and financial responsibility;

5.22 (3) possesses all requisite licenses and permits required by government agencies;

5.23 (4) if the market operates in the state, manages waste according to the waste management
5.24 goal and priority order of waste management practices stated in section 115A.02; and

5.25 (5) minimizes adverse impacts to environmental justice areas.

5.26 Subd. 25. **Reuse.** "Reuse" means the return of a covered material to the marketplace and
5.27 the refilling or continued use of the covered material in the marketplace for its original
5.28 intended purpose without a change in form when the covered material is:

5.29 (1) intentionally designed and marketed to be used multiple times;

5.30 (2) designed for durability and maintenance to extend its useful life and reduce demand
5.31 for new production;

6.1 (3) supported by adequate logistics and infrastructure that provides convenient access
6.2 for return for the purpose of refilling or continued use; and

6.3 (4) compliant with all applicable state and local statutes and rules governing health and
6.4 safety.

6.5 Subd. 26. **Reuse rate.** "Reuse rate" means the share of units of a covered material sold
6.6 into the state in a calendar year that are deemed reusable by the commissioner in accordance
6.7 with section 115A.1451.

6.8 Subd. 27. **Reusable.** "Reusable" means capable of reuse.

6.9 Subd. 28. **Service provider.** "Service provider" means an entity that collects, transfers,
6.10 sorts, processes, or otherwise prepares covered materials for recycling by a responsible
6.11 market, for composting, or for reuse. A political subdivision that provides or that contracts
6.12 or otherwise arranges with another party to provide reuse, collection, recycling, or composting
6.13 services for covered materials within its jurisdiction may be a service provider regardless
6.14 of whether it provided similar services prior to the approval of the applicable stewardship
6.15 plan.

6.16 Subd. 29. **This act.** "This act" means sections 115A.144 to 115A.1463.

6.17 Subd. 30. **Waste reduction or source reduction.** "Waste reduction" or "source reduction"
6.18 has the meaning given in section 115A.03, except that it does not include reuse.

6.19 Sec. 3. **[115A.1442] ESTABLISHMENT OF PROGRAM.**

6.20 Producers must implement and finance a statewide stewardship program for packaging
6.21 and paper products in accordance with this act that encourages packaging redesign to reduce
6.22 risks to environmental and human health and that reduces generation of covered materials
6.23 waste through waste reduction, reuse, recycling, and composting and by providing for
6.24 negotiation and execution of agreements to collect, transport, and process used covered
6.25 materials for reuse, recycling, and composting.

6.26 Sec. 4. **[115A.1443] REGISTRATION OF PRODUCER RESPONSIBILITY**
6.27 **ORGANIZATIONS.**

6.28 Subdivision 1. **Annual registration.** (a) By January 1, 2025, and annually thereafter, a
6.29 producer responsibility organization must register with the commissioner by submitting the
6.30 following:

7.1 (1) contact information for a person responsible for implementing approved stewardship
7.2 plans;

7.3 (2) a list of all member producers that will operate under the stewardship plan
7.4 administered by the producer responsibility organization and, for each producer, a list of
7.5 all brands of the producer's covered materials sold, offered for sale, or distributed in the
7.6 state;

7.7 (3) copies of written agreements with each producer stating that each producer agrees
7.8 to operate under an approved stewardship plan administered by the producer responsibility
7.9 organization;

7.10 (4) a list of current board members and the executive director if different than the person
7.11 responsible for implementing approved stewardship plans; and

7.12 (5) payment of the annual fee required under subdivision 2.

7.13 (b) If one or more producers elects to operate independently under section 115A.1463
7.14 or more than a single producer responsibility organization is established, the producers and
7.15 producer responsibility organizations must establish a coordinating body and process to
7.16 prevent redundancy of service contracts among service providers and to ensure the efficient
7.17 delivery of waste management services. The stewardship plans of all producers operating
7.18 independently and all producer responsibility organizations must be integrated into a single
7.19 stewardship plan that covers all requirements of section 115A.1451 and encompasses all
7.20 producers when submitted to the commissioner for approval.

7.21 Subd. 2. **Registration fee.** (a) As part of its annual registration with the commissioner,
7.22 a producer responsibility organization must submit to the commissioner an annual fee for
7.23 the following year, as determined by the commissioner. Beginning October 1, 2028, and
7.24 annually thereafter, the commissioner must notify registered producer responsibility
7.25 organizations in writing of the amount of the fee for the following year, which must be
7.26 equitably apportioned between registered producer responsibility organizations and which
7.27 must be set at an amount anticipated to in the aggregate meet but not exceed the
7.28 commissioner's estimate of the costs required to perform the commissioner's duties as
7.29 described in section 115A.1445 and to otherwise administer, implement, and enforce this
7.30 act.

7.31 (b) The commissioner must develop and implement a process to reconcile the fees paid
7.32 by a producer responsibility organization under this subdivision with the actual costs incurred
7.33 by the agency on an annual basis, by means of credits or refunds to or additional payments
7.34 required of producer responsibility organizations, as applicable.

8.1 Subd. 3. **Initial producer responsibility organization registration; implementation**
8.2 **fee.** (a) Notwithstanding the other provisions of this section, the commissioner may not
8.3 allow registration of more than one producer responsibility organization under this section
8.4 before the first stewardship plan approved by the commissioner expires. If more than one
8.5 producer responsibility organization applies to register under this section before the first
8.6 stewardship plan is approved by the commissioner, the commissioner must establish a
8.7 process to select the producer responsibility organization that will represent producers until
8.8 the first stewardship plan expires and must return the registration fee paid by applicants
8.9 who are not selected.

8.10 (b) By October 1, 2025, and annually until the first stewardship plan is approved, the
8.11 commissioner must provide written notice to the initial producer responsibility organization
8.12 registered under this section of the commissioner's estimate of the cost of conducting the
8.13 initial needs assessment and the commissioner's costs to administer this act during the period
8.14 prior to plan approval. The producer responsibility organization must remit payment in full
8.15 for these costs to the commissioner within 45 days of receipt of this notice. The producer
8.16 responsibility organization may charge each member producer to cover the cost of its
8.17 implementation fee according to each producer's unit-, weight-, volume-, or sales-based
8.18 market share or by another method it determines to be an equitable determination of each
8.19 producer's payment obligation.

8.20 Sec. 5. **[115A.1444] ESTABLISHMENT OF PRODUCER RESPONSIBILITY**
8.21 **ADVISORY BOARD.**

8.22 Subdivision 1. **Establishment.** The Producer Responsibility Advisory Board is established
8.23 to review all programs conducted by producer responsibility organizations under this act
8.24 and to advise the commissioner and producer responsibility organizations regarding the
8.25 implementation of this act.

8.26 Subd. 2. **Membership.** (a) The membership of the advisory board consists of persons
8.27 appointed by the commissioner as follows:

8.28 (1) two members representing manufacturers of covered materials or a statewide or
8.29 national trade association representing those manufacturers;

8.30 (2) two members representing materials recovery facilities that process covered materials,
8.31 one representing a privately owned facility and one representing a publicly owned facility;

8.32 (3) one member representing a waste hauler or a statewide association representing waste
8.33 haulers;

9.1 (4) one member representing retailers of covered materials or a statewide trade association
9.2 representing those retailers;

9.3 (5) one member representing a statewide nonprofit environmental organization;

9.4 (6) one member representing a community-based nonprofit environmental justice
9.5 organization;

9.6 (7) one member representing a waste facility that receives covered materials and transfers
9.7 them to another facility for reuse, recycling, or composting;

9.8 (8) one member representing a waste facility that receives source-separated compostable
9.9 materials for composting or a statewide trade association that represents such facilities;

9.10 (9) two members representing an entity that develops or offers for sale covered materials
9.11 that are designed for reuse and maintained through a reuse system or infrastructure or a
9.12 statewide or national trade association that represents such entities;

9.13 (10) three members representing organizations of political subdivisions;

9.14 (11) two members representing other stakeholders or additional members of interests
9.15 represented under clauses (1) to (10) as determined by the commissioner; and

9.16 (12) one member representing the commissioner.

9.17 (b) In making appointments under paragraph (a), the commissioner:

9.18 (1) may not appoint members who are state legislators or registered lobbyists; and

9.19 (2) must endeavor to appoint members from all regions of the state.

9.20 Subd. 3. **Terms; removal.** A member of the advisory board appointed under subdivision
9.21 2, paragraph (a), clause (12), serves at the pleasure of the commissioner. All other members
9.22 serve for a term of four years, except that the initial term for five of the initial appointees
9.23 must be two years so that membership terms are staggered. Members may be reappointed
9.24 but may not serve more than eight consecutive years. Removal of members and filling of
9.25 vacancies is governed by section 15.059, subdivision 4.

9.26 Subd. 4. **Compensation.** Members of the board must be compensated in accordance
9.27 with section 15.059, subdivision 3.

9.28 Subd. 5. **Quorum.** A majority of the voting board members constitutes a quorum. If
9.29 there is a vacancy in the membership of the board, a majority of the remaining voting
9.30 members of the board constitutes a quorum.

10.1 Subd. 6. **Voting.** Action by the advisory board requires a majority of those present and
10.2 voting. All members of the advisory board, except the member appointed under subdivision
10.3 2, paragraph (a), clause (12), are voting members of the board.

10.4 Subd. 7. **Meetings.** The advisory board must meet at least two times per year and may
10.5 meet more frequently upon ten days' written notice at the request of the chair or a majority
10.6 of its members.

10.7 Subd. 8. **Open meetings.** Meetings of the board must comply with chapter 13D.

10.8 Subd. 9. **Chair.** At its initial meeting, and every two years thereafter, the advisory board
10.9 must elect a chair and vice-chair from among its members.

10.10 Subd. 10. **Administrative and operating support.** The commissioner must provide
10.11 administrative and operating support to the advisory board and may contract with a third-party
10.12 facilitator to assist in administering the activities of the advisory board.

10.13 Subd. 11. **Conflict of interest policies.** The commissioner must assist the advisory board
10.14 in developing policies and procedures governing the disclosure of actual or perceived
10.15 conflicts of interest that advisory board members may have as a result of their employment
10.16 or financial holdings of themselves or of family members. Each advisory board member is
10.17 responsible for reviewing the conflict of interest policies and procedures. An advisory board
10.18 member must disclose any instance of actual or perceived conflicts of interest at each meeting
10.19 of the advisory board at which recommendations regarding stewardship plans, programs,
10.20 operations, or activities are made by the advisory board.

10.21 Sec. 6. **[115A.1445] COMMISSIONER RESPONSIBILITIES.**

10.22 The commissioner has the following duties:

10.23 (1) to appoint the initial membership of the advisory board by January 1, 2025, in
10.24 accordance with section 115A.1444;

10.25 (2) to provide administrative and operating support to the advisory board, as required
10.26 by section 115A.1444, subdivision 10;

10.27 (3) to complete an initial needs assessment by December 31, 2026, and to update the
10.28 needs assessment every five years thereafter, in accordance with the requirements of section
10.29 115A.1450;

10.30 (4) to approve stewardship plans and amendments to stewardship plans in accordance
10.31 with section 115A.1451;

11.1 (5) to provide a list of covered materials that are deemed recyclable or compostable to
11.2 all producer responsibility organizations by March 1, 2027, and at least every three years
11.3 thereafter, in accordance with the requirements of section 115A.1453;

11.4 (6) to post on the agency's website:

11.5 (i) producer responsibility organizations' registration materials, including all information
11.6 submitted under section 115A.1443, subdivision 1;

11.7 (ii) the names of producers and brands that are not in compliance with section 115A.1448;

11.8 (iii) the most recent needs assessment and all past needs assessments;

11.9 (iv) any stewardship plan, amendment, or reports submitted by a producer responsibility
11.10 organization under sections 115A.1451 and 115A.1456 that are in draft form during the
11.11 public comment period;

11.12 (v) the list of recyclable or compostable covered materials developed by the commissioner
11.13 under section 115A.1453;

11.14 (vi) links to producer responsibility organization websites;

11.15 (vii) comments of the public, advisory board, and producer responsibility organizations
11.16 on the documents listed in items (ii), (iii), (iv), and (vii), and the responses of the
11.17 commissioner to those comments; and

11.18 (viii) links to proposed and adopted rules implementing this act;

11.19 (7) to require and select independent auditors to perform annual audits of each producer
11.20 responsibility organization;

11.21 (8) to consider and respond in writing to all written comments received from the advisory
11.22 board; and

11.23 (9) to facilitate a dispute resolution process for disputes related to reimbursements, as
11.24 provided for in section 115A.1455.

11.25 **Sec. 7. [115A.1446] PRODUCER RESPONSIBILITY ADVISORY BOARD**
11.26 **RESPONSIBILITIES.**

11.27 The Producer Responsibility Advisory Board has the following duties:

11.28 (1) to convene its initial meeting by March 1, 2025;

12.1 (2) to consult with the commissioner regarding the scope of the needs assessment and
 12.2 to provide written comments on needs assessments, in accordance with section 115A.1450,
 12.3 subdivision 2;

12.4 (3) to advise on the development of stewardship plans and amendments to stewardship
 12.5 plans under section 115A.1451;

12.6 (4) to submit comments to producer responsibility organizations and to the commissioner
 12.7 on any matter relevant to the administration of this act; and

12.8 (5) to provide written comments to the commissioner during any rulemaking process
 12.9 undertaken by the commissioner under section 115A.1459.

12.10 Sec. 8. **[115A.1447] PRODUCER RESPONSIBILITY ORGANIZATION**
 12.11 **RESPONSIBILITIES.**

12.12 A producer responsibility organization has the following duties:

12.13 (1) to annually register with the commissioner, in accordance with section 115A.1443;

12.14 (2) to submit a stewardship plan to the commissioner by March 1, 2028, and every five
 12.15 years thereafter, in accordance with section 115A.1451;

12.16 (3) to implement stewardship plans approved by the commissioner under section
 12.17 115A.1451 and to comply with the requirements of this act;

12.18 (4) to forward upon receipt from the commissioner the list of covered materials that are
 12.19 deemed recyclable or compostable to all service providers that participate in a stewardship
 12.20 plan administered by the producer responsibility organization;

12.21 (5) to collect producer fees in accordance with section 115A.1454;

12.22 (6) to submit the reports required by section 115A.1456;

12.23 (7) to ensure that producers operating under a stewardship plan administered by the
 12.24 producer responsibility organization comply with the requirements of the stewardship plan
 12.25 and with this act;

12.26 (8) to expel a producer from the producer responsibility organization if efforts to return
 12.27 the producer to compliance with the plan or with the requirements of this act are unsuccessful.
 12.28 The producer responsibility organization must notify the commissioner when a producer
 12.29 has been expelled under this clause;

12.30 (9) to consider and respond in writing to comments received from the advisory board,
 12.31 including justifications for not incorporating any recommendations;

13.1 (10) to provide producers with information regarding state and federal laws that prohibit
 13.2 the presence of toxic substances in covered materials, including sections 115A.965, 116.943,
 13.3 325F.075, 325F.172 to 325F.175, 325F.176 to 325F.179, and all laws prohibiting toxic
 13.4 substances in covered materials;

13.5 (11) to maintain a website in accordance with section 115A.1457;

13.6 (12) to notify the commissioner within 30 days if a change is made to the contact
 13.7 information for a person responsible for implementing the stewardship plan, a change to
 13.8 the board members, or a change to the executive director;

13.9 (13) to assist service providers in identifying and using responsible markets;

13.10 (14) to ensure statewide coverage of and access to the program operated under this act,
 13.11 including access to collection services for covered materials on the recyclable materials list
 13.12 established pursuant to section 115A.1453, at no cost to all single-family residences,
 13.13 multifamily residences, and political subdivisions arranging for collection of recyclable
 13.14 materials from public places; and

13.15 (15) to reimburse materials recovery facilities and composting facilities for the costs of
 13.16 processing covered materials generated from all single-family residences, multifamily
 13.17 residences, public places, and commercial, industrial, and institutional facilities in the state.

13.18 **Sec. 9. [115A.1448] PRODUCER RESPONSIBILITIES.**

13.19 Subdivision 1. **Registration required; prohibition of sale.** (a) Once one or more
 13.20 producer responsibility organizations have registered under section 115A.1443, a producer
 13.21 must not operate unless it is a member of a producer responsibility organization.

13.22 (b) After January 1, 2029, no producer may sell, offer for sale, or distribute covered
 13.23 materials in the state, either separately or when used to package another product, unless the
 13.24 producer operates under a written agreement with a producer responsibility organization to
 13.25 operate under an approved stewardship plan.

13.26 Subd. 2. **Duties.** A producer has the following duties:

13.27 (1) to ensure that all covered materials sold or offered for sale in the state after January
 13.28 1, 2032, are:

13.29 (i) capable of being managed by a reuse system, are recyclable, or are compostable; and

13.30 (ii) included on the recyclables or compostables list established under section 115A.1453
 13.31 or are included in an alternative collection system approved as part of a stewardship plan
 13.32 under section 115A.1451;

14.1 (2) to implement the requirements of the stewardship plan under which the producer
14.2 operates and to comply with the requirements of this act; and

14.3 (3) to pay producer fees in accordance with section 115A.1454.

14.4 **Sec. 10. [115A.1449] SERVICE PROVIDER RESPONSIBILITIES.**

14.5 A service provider has the following duties:

14.6 (1) to collect and manage covered materials in the state pursuant to contractual agreements
14.7 with a producer responsibility organization that are entered into under an approved
14.8 stewardship plan;

14.9 (2) if the service provider is a political subdivision, to provide at least a one-year advance
14.10 notice to the producer responsibility organization if the political subdivision plans to cease
14.11 acting as a service provider; and

14.12 (3) if a service provider manages covered materials on the compostable materials list
14.13 established pursuant to section 115A.1453, to complete annual sorts to estimate the level
14.14 of covered compostable materials compared to all incoming source-separated compostable
14.15 materials and to estimate the level of contamination of incoming covered materials before
14.16 processing for composting.

14.17 **Sec. 11. [115A.1450] NEEDS ASSESSMENT.**

14.18 Subdivision 1. **Needs assessment required.** By December 31, 2026, and every five
14.19 years thereafter, the commissioner must complete a statewide needs assessment in accordance
14.20 with this section.

14.21 Subd. 2. **Input from interested parties.** In conducting a needs assessment, the
14.22 commissioner must:

14.23 (1) 22 months prior to the date by which the needs assessment is due, initiate a
14.24 consultation process to obtain recommendations from the advisory board, political
14.25 subdivisions, service providers, producer responsibility organizations, and other interested
14.26 parties regarding the type and scope of information that should be collected and analyzed
14.27 in the statewide needs assessment required by this section;

14.28 (2) 18 months prior to the date by which the needs assessment is due, contract with an
14.29 independent third party to conduct the needs assessment; and

14.30 (3) 60 days prior to finalizing the needs assessment, make the draft needs assessment
14.31 available for comment by the advisory board, producer responsibility organizations, and

15.1 the public. The commissioner must respond in writing to the comments and recommendations
15.2 of the advisory board and producer responsibility organizations within 30 days.

15.3 Subd. 3. Content of needs assessment. A needs assessment must include at least the
15.4 following:

15.5 (1) an evaluation of the performance of:

15.6 (i) existing waste reduction, reuse, recycling, and composting efforts for each covered
15.7 materials type, as applicable, including collection rates, recycling rates, composting rates,
15.8 and reuse rates for each covered materials type;

15.9 (ii) overall rates of recycling and composting for all covered materials; and

15.10 (iii) the extent to which postconsumer recycled content is incorporated into each covered
15.11 materials type, as applicable;

15.12 (2) an evaluation of a representative sample of management of covered materials with
15.13 mixed municipal solid waste, as source-separated recyclable materials, and as
15.14 source-separated compostable materials as received by waste management, recycling, and
15.15 composting facilities in the state, and relevant findings from any publicly available waste
15.16 stream evaluations conducted within the previous year, to evaluate the amount and portion
15.17 of covered materials being disposed of that would otherwise be recyclable or compostable;

15.18 (3) proposals for a range of potential performance targets as applicable to each covered
15.19 materials type to be accomplished within a five-year time frame in multiple units of
15.20 measurement, including but not limited to unit-based, weight-based, and volume-based, for
15.21 each of the following:

15.22 (i) waste reduction;

15.23 (ii) reuse;

15.24 (iii) recycling;

15.25 (iv) composting; and

15.26 (v) postconsumer recycled content;

15.27 (4) information to be considered in determining whether a covered materials type is
15.28 reusable, recyclable, or compostable, including its potential use as a marketable feedstock;

15.29 (5) proposed plans and metrics for how to measure progress in achieving performance
15.30 targets and an evaluation of options for third-party verification of activities to meet
15.31 obligations of this act;

- 16.1 (6) an inventory of the current system including:
- 16.2 (i) infrastructure, capacity, performance, funding level, and method and sources of
- 16.3 financing for the existing reuse, collection, transportation, processing, recycling, and
- 16.4 composting systems for covered materials operating in the state; and
- 16.5 (ii) availability and cost of reuse, recycling, and composting services for covered materials
- 16.6 at single-family residences, multifamily residences, commercial facilities, industrial facilities,
- 16.7 institutional facilities, and public places, including identification of disparities in the
- 16.8 availability of these services in environmental justice areas compared with other areas and
- 16.9 proposals for reducing or eliminating those disparities;
- 16.10 (7) an evaluation of investments needed to increase waste reduction, reuse, recycling,
- 16.11 and composting rates of covered materials according to proposals for performance targets
- 16.12 in clause (3), including:
- 16.13 (i) to maintain or improve operations of existing infrastructure and accounts for reuse,
- 16.14 recycling, and composting of covered materials; and
- 16.15 (ii) to expand the availability and accessibility of recycling collection services for
- 16.16 recyclable covered materials to all residents of the state at the same or comparable level of
- 16.17 convenience as collection services for mixed municipal solid waste;
- 16.18 (8) an assessment of the viability and robustness of markets for recyclable covered
- 16.19 materials and the degree to which these markets can be considered responsible markets;
- 16.20 (9) an assessment of the level of contamination of source-separated recyclable materials
- 16.21 and source-separated compostable materials that include covered materials collected for
- 16.22 recycling and composting and the impacts of contamination on recycling and composting
- 16.23 facilities, including information about:
- 16.24 (i) the presence of toxic substances in covered materials;
- 16.25 (ii) their potential impacts on human and environmental health; and
- 16.26 (iii) whether it limits one or more covered materials type from being used as a marketable
- 16.27 feedstock; and
- 16.28 (10) an assessment of current best practices to increase public awareness, educate, and
- 16.29 complete outreach activities accounting for culturally responsive materials and methods
- 16.30 and an evaluation of the efficacy of these efforts including:
- 16.31 (i) product labels as a means of informing consumers about environmentally sound
- 16.32 management of covered materials;

17.1 (ii) how to manage covered materials in an environmentally sound manner and how to
17.2 access reuse, recycling, and composting services; and

17.3 (iii) encouraging behavior change to increase participation in reuse, recycling, and
17.4 composting programs.

17.5 Subd. 4. **Needs assessment as baseline.** When determining the extent to which any goal
17.6 or performance target under this act has been achieved, information contained in a needs
17.7 assessment must serve as the baseline for that determination, where applicable.

17.8 Sec. 12. **[115A.1451] STEWARDSHIP PLAN.**

17.9 Subdivision 1. **Stewardship plan required.** By March 1, 2028, and every five years
17.10 thereafter, a producer responsibility organization must submit a stewardship plan to the
17.11 commissioner that describes the proposed operation by the organization of programs to
17.12 fulfill the requirements of this act and that takes into account the findings of needs
17.13 assessments.

17.14 Subd. 2. **Input from interested parties.** A producer responsibility organization must:

17.15 (1) submit a draft stewardship plan to the advisory board and to the commissioner;

17.16 (2) make the plan available for public comment at least 60 days before submitting the
17.17 plan to the commissioner; and

17.18 (3) consider the comments and recommendations received before submitting the final
17.19 plan to the commissioner.

17.20 Subd. 3. **Content of stewardship plans.** A proposed stewardship plan must include at
17.21 least the following:

17.22 (1) performance targets as applicable to each covered materials type to be accomplished
17.23 within a five-year time as established by the commissioner in subdivision 6, paragraph (a);

17.24 (2) a list of covered materials proposed for collection and the method of collection to
17.25 be used for each, including proposals for alternative collection of covered materials not
17.26 included in the list established by the commissioner under section 115A.1453;

17.27 (3) proposals for exemptions from performance targets for covered materials that cannot
17.28 be waste reduced or made reusable, recyclable, or compostable due to health and safety
17.29 concerns;

17.30 (4) a plan for how the producer responsibility organization will ensure measuring of
17.31 recycled materials and reuse according to subdivision 6, paragraphs (c) and (d), and a

- 18.1 description of how the organization will measure all other covered materials, including
18.2 measuring waste reduction, composting, and inclusion of postconsumer recycled content;
18.3 (5) a plan for adopting verifications by independent third parties, as applicable;
18.4 (6) a proposed budget and identification of funding needs for each of the five calendar
18.5 years covered by the plan, including:
18.6 (i) proposed producer fees and a description of the process used to calculate the proposed
18.7 fees, including an explanation of how the fees reflect the requirements of section 115A.1454;
18.8 and
18.9 (ii) a plan for proposed infrastructure investments, including a description of how the
18.10 process to offer and select opportunities will be conducted in an open, competitive, and fair
18.11 manner, how it will address gaps in the system not met by service providers, and a description
18.12 of the financial and legal instruments to be used;
18.13 (7) a description of activities to be undertaken during the next five calendar years, which
18.14 must at a minimum describe how the producer responsibility organization, acting on behalf
18.15 of producers, proposes to:
18.16 (i) minimize the environmental impacts and human health impacts of covered materials;
18.17 (ii) incorporate as program objectives the improved design of covered materials in
18.18 accordance with section 115A.1454, subdivision 1, clause (2);
18.19 (iii) expand and increase the convenience of reuse, collection, recycling, and composting
18.20 services with a preference given to the top of the waste management hierarchy defined in
18.21 section 115A.02;
18.22 (iv) provide collection of source-separated recyclable materials to single-family and
18.23 multifamily residences and public places in the state in jurisdictions where political
18.24 subdivisions do not provide these services; and
18.25 (v) ensure that postconsumer recycled materials are delivered to responsible markets;
18.26 (8) a description of how the program uses and interacts with existing collection, reuse,
18.27 recycling, and composting efforts and service providers;
18.28 (9) proposed reimbursement formulas and schedules of reimbursement rates for service
18.29 providers that elect to participate in the program and a description of how the formulas and
18.30 schedules were developed in accordance with section 115A.1455;
18.31 (10) proposed terms and conditions for service agreements, including proposed
18.32 performances standards; certification that the producer responsibility organization will treat

19.1 data submitted by service providers as nonpublic data with service providers electing to
19.2 participate in the program; and templates of service agreements;

19.3 (11) a description of how the producer responsibility organization will contract with the
19.4 following types of service providers, at a minimum, to conduct the services identified in
19.5 the stewardship plan:

19.6 (i) service providers that conduct collection services for single-family and multifamily
19.7 residences and public places; and

19.8 (ii) service providers that conduct reuse, recycling, and composting services to sort,
19.9 remove contamination from, and prepare covered materials for reuse or to send to responsible
19.10 markets;

19.11 (12) a description of how the producer responsibility organization will provide technical
19.12 assistance to service providers that deliver covered materials to responsible markets;

19.13 (13) a discussion of technical assistance provided to producers regarding toxic substances
19.14 in covered materials and actions taken by producers to reduce the presence of toxic substances
19.15 in covered materials through proof of testing or an analytical and scientifically demonstrated
19.16 methodology;

19.17 (14) a description of how the producer responsibility organization intends to increase
19.18 public awareness, educate, and complete outreach activities accounting for culturally
19.19 responsive materials and methods and evaluate the efficacy of these efforts including:

19.20 (i) assist producers in improving product labels as a means of informing consumers
19.21 about environmentally sound management of covered materials;

19.22 (ii) how to manage covered materials in an environmentally sound manner and how to
19.23 access reuse, recycling, and composting services; and

19.24 (iii) encourage behavior change to increase participation in reuse, recycling, and
19.25 composting programs;

19.26 (15) a summary of consultations held with the advisory board and other stakeholders to
19.27 provide input to the stewardship plan, a list of recommendations that were incorporated into
19.28 the stewardship plan as a result, and a list of rejected recommendations and the reasons for
19.29 rejection; and

19.30 (16) strategies to incorporate findings from any relevant studies required by the
19.31 legislature.

20.1 Subd. 4. **Approval.** (a) The commissioner must review a stewardship plan and approve,
20.2 propose modifications to, or reject it within 90 days of receipt, providing reasons for proposed
20.3 modifications or rejection in writing to the producer responsibility organization that submitted
20.4 it.

20.5 (b) The producer responsibility organization must submit a revised stewardship plan, if
20.6 necessary, within 60 days of receiving the commissioner's decision. The commissioner must
20.7 review a revised stewardship plan within 45 days of receipt. The commissioner may require
20.8 submission of additional revised stewardship plans until a revised stewardship plan is
20.9 approved.

20.10 (c) Once approved, a stewardship plan remains in effect for five years, as amended, or
20.11 until a subsequent stewardship plan is approved.

20.12 Subd. 5. **Amendment.** (a) A producer responsibility organization may file a proposed
20.13 amendment to a stewardship plan with the commissioner at any time but must submit the
20.14 proposed amendment to the advisory board for review at least 60 days prior to filing the
20.15 amendment request, and the commissioner must make the proposed amendment available
20.16 for public comment during that period. The commissioner must review an amendment and
20.17 approve, modify, or reject the proposed amendment within 45 days of receipt. A producer
20.18 responsibility organization may not change operations under an approved stewardship plan
20.19 without the commissioner's written approval.

20.20 (b) Upon recommendation by the advisory board, or upon the commissioner's own
20.21 initiative, the commissioner may require an amendment to a stewardship plan if the
20.22 commissioner determines that an amendment is necessary to ensure that the producer
20.23 responsibility organization maintains progress toward meeting annual performance targets
20.24 and other objectives of a stewardship plan.

20.25 Subd. 6. **Performance targets.** (a) The commissioner must establish performance targets
20.26 based on the needs assessment for any stewardship plan approved under this section.
20.27 Performance targets must include targets for waste reduction, reuse, recycling, composting,
20.28 and postconsumer recycled content by covered materials type that are to be achieved by the
20.29 end of the stewardship plan's term. The commissioner must select the unit that is most
20.30 appropriate to measure each performance target as informed by the needs assessment.

20.31 (b) Notwithstanding subdivision 3, clause (4), the commissioner may require that a
20.32 producer responsibility organization obtain third-party certification that certain recycling
20.33 and reuse standards have been met in lieu of establishing targets under paragraphs (c) and

21.1 (d). The commissioner must provide a producer responsibility organization with notice of
21.2 at least one year prior to requiring use of third-party certification under this paragraph.

21.3 (c) Recycling targets established in a stewardship plan must provide for measuring to
21.4 be the amount of recycled material to be at the point at which material leaves a material
21.5 recovery facility or, if it is source-separated and does not require processing at a material
21.6 recovery facility, at the point at which material arrives at a recycling facility to be sent to
21.7 or used at a responsible market. Measurement must remove an estimate of contamination
21.8 documented by the facility. Measuring must take into consideration:

21.9 (1) whether the material is a marketable commodity stream meeting industry
21.10 specifications for recycling and, if collected with other source-separated recyclable materials,
21.11 whether it can be sorted into defined marketable commodity streams that meet industry
21.12 specifications;

21.13 (2) that measurement excludes uses for fuel or energy capture;

21.14 (3) the extent to which the covered material is technically and economically feasible to
21.15 collect and recycle;

21.16 (4) that the covered material must comply with sections 115A.965, 116.943, 325F.075,
21.17 325F.172 to 325F.179, and all other laws pertaining to toxic substances in covered materials;
21.18 and

21.19 (5) other criteria determined by the commissioner.

21.20 (d) Source reduction targets established in a stewardship plan must provide for the
21.21 measurement of the amount of source reduction of covered materials in a manner that:

21.22 (1) is sufficient to determine the extent to which the amount of material used for a covered
21.23 material is eliminated beyond what is necessary to efficiently deliver a product without
21.24 damage or spoilage, or other means of covered material redesign to reduce overall material
21.25 use, without compromising the ability for the covered material to be reused, recycled or
21.26 composted;

21.27 (2) excludes applications when a nonplastic material is to be replaced by a plastic material,
21.28 unless that plastic material is a compostable covered material;

21.29 (3) excludes light-weighting packaging to a point where it interferes with its recyclability;
21.30 and

21.31 (4) meets other criteria as determined by the commissioner.

22.1 (e) Reuse targets established in a stewardship plan must provide for measuring to be the
22.2 amount of reusable covered materials to be at the point at which reusable covered materials
22.3 meet the following criteria as demonstrated by the producer and approved by the
22.4 commissioner:

22.5 (1) the average minimum number of cycles of reuses within a recognized reuse system
22.6 or the number of times an item must be reused for it to have lower life cycle impacts than
22.7 nonreusable alternatives is reached;

22.8 (2) the demonstrated or research-based anticipated return rate of the covered material
22.9 to the reuse system is achieved; and

22.10 (3) other criteria demonstrated by the commissioner.

22.11 (f) For other targets, the producer responsibility organization must propose a calculation
22.12 point for review and approval as part of the stewardship plan based on findings from the
22.13 needs assessment.

22.14 Subd. 7. **Statewide goals.** (a) The commissioner must ensure that performance targets
22.15 incorporated into stewardship plans approved under subdivision 6 will, in the aggregate,
22.16 result in achievement of the following goals by the end of the year indicated:

22.17 (1) by 2033:

22.18 (i) 65 percent of covered materials by weight sold into the state must be recycled or
22.19 composted;

22.20 (ii) ten percent of the number of units of packaging sold into the state must be returned
22.21 to an established reuse system;

22.22 (iii) the weight of covered materials sold in the state must be source reduced by 15
22.23 percent, compared to levels identified in the initial needs estimate; and

22.24 (iv) all covered materials sold, offered for sale, or distributed for sale in this state must
22.25 contain at least ten percent postconsumer recycled content, with all covered materials
22.26 containing an overall average of at least 30 percent; and

22.27 (2) by 2038:

22.28 (i) 75 percent of covered materials by weight sold into the state must be recycled or
22.29 composted;

22.30 (ii) 20 percent of the number of units of packaging sold into the state must be returned
22.31 to an established reuse system;

23.1 (iii) the weight of covered materials sold in the state must be source reduced by 25
 23.2 percent, compared to levels identified in the initial needs estimate; and

23.3 (iv) all covered materials sold, offered for sale, or distributed for sale in this state must
 23.4 contain at least 30 percent postconsumer recycled content, with all covered products
 23.5 containing an overall average of at least 50 percent.

23.6 (b) The commissioner may adjust any goal set forth in paragraph (a) by no more than
 23.7 five percent but must submit the proposed adjustment to the advisory board and consider
 23.8 the board's recommendations before making the adjustment.

23.9 **Sec. 13. [115A.1453] RECYCLABLE OR COMPOSTABLE COVERED**
 23.10 **MATERIALS LISTS.**

23.11 Subdivision 1. **List required.** By March 1, 2027, and at least every three years thereafter,
 23.12 the commissioner must complete a list of covered materials determined to be recyclable or
 23.13 compostable through a curbside or equivalent collection system where covered materials
 23.14 are commingled into a recyclables stream and a separate compostables stream in accordance
 23.15 with this section and must provide the list to all producer responsibility organizations.

23.16 Subd. 2. **Input from interested parties; development of criteria.** The commissioner
 23.17 must consult with the advisory board, producer responsibility organizations, service providers,
 23.18 political subdivisions, and other interested parties to develop criteria for determining which
 23.19 covered materials are recyclable and compostable through a curbside or equivalent collection
 23.20 system where covered materials are commingled into a recyclables stream and a separate
 23.21 compostables stream. For recycling, the covered material must meet the criteria in section
 23.22 115A.1451, subdivision 6, paragraph (c). The criteria must include:

23.23 (1) the technical and economic feasibility of recycling or composting each covered
 23.24 material;

23.25 (2) the need for and cost of any specialized equipment required as part of the recycling
 23.26 or composting process;

23.27 (3) a requirement that the recycling or composting technology is available to no less
 23.28 than 60 percent of the population in the metropolitan area and no less than 60 percent of
 23.29 the population outside the metropolitan area;

23.30 (4) a requirement that if a covered material is collected for recycling, the material type
 23.31 and form is regularly sorted and aggregated into defined streams for recycling processes or
 23.32 the package format falls into a relevant Institution of Scrap Recycling Industries specification;

24.1 (5) 75 percent of covered materials type by unit is in a similar format as other covered
24.2 materials in that category and can be managed by recycling or managed by composting;

24.3 (6) a requirement that if a covered material collected for recycling is made of plastic,
24.4 the covered material must be designed to ensure it is recyclable or compostable and does
24.5 not include any components, inks, adhesives, or labels that interfere with the recycling or
24.6 composting process;

24.7 (7) a requirement that a covered material complies with sections 115A.965, 116.943,
24.8 325F.075, 325F.172 to 325F.179, and all other laws pertaining to toxic substances in covered
24.9 materials; and

24.10 (8) other criteria determined by the commissioner.

24.11 Subd. 3. **Amendment.** The commissioner may amend a list completed under this section
24.12 at any time and must provide amended lists to producer responsibility organizations as soon
24.13 as possible after adopting an amendment. Producer responsibility organizations must provide
24.14 amended lists to service providers as soon as possible after receiving the amendment and
24.15 work to incorporate changes in relevant service provider agreements and operations within
24.16 a year.

24.17 Sec. 14. **[115A.1454] PRODUCER FEES.**

24.18 Subdivision 1. **Annual fee.** A producer responsibility organization must annually collect
24.19 a fee from each producer that must:

24.20 (1) be based on the total amount of covered materials each producer sells, offers for sale,
24.21 or distributes in the state in the prior year calculated on a per-unit basis, such as per ton, per
24.22 item, or another unit of measurement;

24.23 (2) incentivize using materials and design attributes that reduce the environmental impacts
24.24 and human health impacts of covered materials by the following methods:

24.25 (i) eliminating the presence of toxic substances;

24.26 (ii) reducing the amount of packaging per individual covered material that is necessary
24.27 to efficiently deliver a product without damage or spoilage without reducing its ability to
24.28 be recycled or reducing the amount of paper used to manufacture individual paper products;

24.29 (iii) increasing covered materials managed in a reuse system;

24.30 (iv) enhancing recyclability or compostability of a covered material;

- 25.1 (v) increasing the proportion of postconsumer recycled content in covered materials;
25.2 and
- 25.3 (vi) increasing the amount of inputs derived from renewable and sustainable sources;
- 25.4 (3) discourage using materials and design attributes in a producer's covered materials
25.5 whose environmental impacts and human health impacts, as determined by the commissioner,
25.6 can be reduced by the methods listed under clause (2);
- 25.7 (4) prioritize reuse by charging covered materials that are managed through a reuse
25.8 system only once, upon initial entry into the marketplace, and by applying the lowest fee
25.9 to these covered materials; and
- 25.10 (5) generate revenue sufficient to pay in full:
- 25.11 (i) the annual registration fee required under section 115A.1443;
- 25.12 (ii) financial obligations to complete activities described in an approved stewardship
25.13 plan and to reimburse service providers under agreements in section 115A.1455;
- 25.14 (iii) the operating costs of the producer responsibility organization; and
- 25.15 (iv) for the establishment and maintenance of a financial reserve that is sufficient to
25.16 operate the program in a fiscally prudent and responsible manner.
- 25.17 Subd. 2. **Overcollections.** Revenue collected under this section that exceeds the amount
25.18 needed to pay the costs described in subdivision 1, clause (5), must be used to improve or
25.19 enhance program outcomes or to reduce producer fees in accordance with provisions of an
25.20 approved stewardship plan.
- 25.21 Subd. 3. **Prohibited conduct.** (a) Fees collected under this section may not be used for
25.22 lobbying, as defined in section 3.084, subdivision 1.
- 25.23 (b) A person may not charge a point-of-sale or point-of-collection fee for services that
25.24 are provided under an approved stewardship plan, except that this paragraph does not prohibit
25.25 charging a fee that is:
- 25.26 (1) a deposit made in connection with a product's reuse or recycling that can be redeemed
25.27 by the consumer; or
- 25.28 (2) required by a political subdivision to encourage waste reduction, reuse, recycling,
25.29 or composting.

26.1 Sec. 15. **[115A.1455] SERVICE PROVIDER AGREEMENTS; REIMBURSEMENT**
26.2 **RATES.**

26.3 Subdivision 1. **Service provider agreements required.** (a) The terms and conditions
26.4 of the provision of reuse, collection, recycling, or composting services under an approved
26.5 stewardship plan must be established under a service agreement between a producer
26.6 responsibility organization and a service provider. Each agreement must:

26.7 (1) establish strong labor standards and work safety practices, including but not limited
26.8 to safety programs, health benefits, and living wages; and

26.9 (2) require the service provider to meet established performance standards.

26.10 (b) For service providers collecting recyclable covered materials and compostable covered
26.11 materials, agreements must also include the following:

26.12 (1) a requirement to maintain or increase the level of convenience or service quality that
26.13 was provided by service providers before this act was enacted; and

26.14 (2) a requirement that the service provider accept all the materials on the list of recyclable
26.15 or compostable materials established by the commissioner under section 115A.1453.

26.16 (c) For service providers sorting recyclable covered materials, agreements must also
26.17 include the following:

26.18 (1) minimum capture rates, maximum processing residual rates, and minimum bale
26.19 quality;

26.20 (2) demonstrations that materials have been sent to responsible markets; and

26.21 (3) a requirement that the service provider collect all the materials on the list of recyclable
26.22 materials established by the commissioner under section 115A.1453.

26.23 (d) For service providers managing compostable covered materials, agreements must
26.24 ensure that service providers accept all the materials on the list of compostable materials
26.25 established by the commissioner under section 115A.1453.

26.26 Subd. 2. **Collection of recyclables.** If a political subdivision operates as a service provider
26.27 to households or public spaces in its jurisdiction for the collection of all recyclable materials
26.28 identified on the list established under 115A.1453, the producer responsibility organization
26.29 must offer a service provider agreement to that political subdivision. The political subdivision
26.30 may or may not choose to become party to a service agreement. If a household does not
26.31 have access to services for collection of all recyclable materials on the list established under
26.32 115A.1453, the producer responsibility organization must ensure that collection service is

27.1 available to the household through another service provider. The producer responsibility
27.2 organization may enter into a service agreement with a service provider to ensure service
27.3 or otherwise document that the service is available from a service provider that opts not to
27.4 enter into a service agreement.

27.5 Subd. 3. **Bidding processes.** (a) A producer responsibility organization must use open,
27.6 competitive, and fair procurement practices when entering into agreements with service
27.7 providers that are not political subdivisions, except that preference must be given to existing
27.8 facilities, providers of services, and accounts in the state for reuse, collection, recycling,
27.9 and composting of covered materials.

27.10 (b) Agreements between a producer responsibility organization and a political subdivision
27.11 that acts as a service provider within its jurisdiction must include requirements that the
27.12 political subdivision use open, competitive, and fair procurement practices to obtain those
27.13 services, or otherwise follow state law regarding authorities allowed in the procurement of
27.14 such services.

27.15 Subd. 4. **Reimbursement rates.** Each service agreement must include reimbursement
27.16 rates for services that are based on formulas that:

27.17 (1) incorporate relevant cost information identified by the needs assessment;

27.18 (2) reflect conditions that affect reuse, collection, recycling, and composting costs in
27.19 the region or jurisdiction in which the services are provided, including but not limited to:

27.20 (i) the number and size of households;

27.21 (ii) population density;

27.22 (iii) collections methods employed;

27.23 (iv) distance to consolidation or transfer facilities, reuse, recycling, or composting
27.24 facilities, or to responsible markets; and

27.25 (v) other factors that may contribute to regional or jurisdictional cost differences;

27.26 (3) reflect administrative costs of service providers, including education, public awareness
27.27 campaigns, and outreach program costs as applicable;

27.28 (4) reflect planned capital improvements to facilities and equipment costs;

27.29 (5) reflect the cost of managing contamination present in source-separated recyclable
27.30 materials and source-separated compostable materials; and

28.1 (6) reflect the proportion of covered compostable materials within all source-separated
28.2 compostable materials collected or managed through composting.

28.3 Subd. 5. Section does not affect local government authority. Nothing in this section
28.4 shall be construed to require a political subdivision to agree to operate under a stewardship
28.5 plan, nor does it restrict the authority of a political subdivision to provide waste management
28.6 services to residents or to contract with any entity to provide waste management services.

28.7 **Sec. 16. [115A.1456] REPORTING.**

28.8 Subdivision 1. Producer responsibility organization annual report. (a) By July 1,
28.9 2031, and each May 1 thereafter, a producer responsibility organization must submit a
28.10 written report to the commissioner that contains, at a minimum, the following information
28.11 for the previous calendar year:

28.12 (1) the amount of covered materials sold, offered for sale, or distributed in the state, by
28.13 each covered materials type, reported in the same units used to establish fees under section
28.14 115A.1454, subdivision 1, clause (1);

28.15 (2) progress toward the performance targets reported in the same units used to establish
28.16 producer fees under section 115A.1454, subdivision 1, clause (1), and reported statewide
28.17 and for each county including:

28.18 (i) the amount of covered materials successfully waste reduced, reused, recycled, and
28.19 composted by covered materials type and collection method; and

28.20 (ii) verification by an independent third party, if available, of activities to meet obligations
28.21 of this act;

28.22 (3) the total cost to implement the program and a detailed description of program
28.23 expenditures including:

28.24 (i) the total amount of producer fees collected in the current calendar year; and

28.25 (ii) a description of infrastructure investments made during the previous year;

28.26 (4) a copy of a financial audit of program operations conducted by an independent third
28.27 party approved by the commissioner;

28.28 (5) a description of program performance problems that emerged in specific locations
28.29 and efforts taken or proposed by the producer responsibility organization to address them;

28.30 (6) a discussion of technical assistance provided to producers regarding toxic substances
28.31 in covered materials and actions taken by producers to reduce the presence of toxic substances

29.1 in covered materials through proof of testing or an analytical and scientifically demonstrated
29.2 methodology;

29.3 (7) a description of public awareness, education, and outreach activities undertaken
29.4 including any evaluations conducted of their efficacy, plans for next calendar year's activities,
29.5 and an evaluation of the process established by the producer responsibility organization to
29.6 answer questions from consumers regarding collection, recycling, composting, and reuse
29.7 activities;

29.8 (8) a summary of consultations held with the advisory board and how any feedback was
29.9 incorporated into the report as a result of the consultations, together with a list of rejected
29.10 recommendations and the reasons for rejection;

29.11 (9) a list of any producers found to be out of compliance with this act, and actions taken
29.12 by the producer responsibility organization to return the producer to compliance, and
29.13 notification of any producers that are no longer participating in the producer responsibility
29.14 organization or have been expelled due to their lack of compliance; and

29.15 (10) any proposed amendments to the stewardship plan to improve program performance
29.16 or reduce costs, including changes to producer fees, infrastructure investments, or
29.17 reimbursement formula and rates.

29.18 Subd. 2. **Report following unmet target.** A producer responsibility organization that
29.19 fails to meet a performance target established in an approved stewardship plan must, within
29.20 90 days of filing an annual report under this section, file with the commissioner an
29.21 explanation of the factors contributing to the failure and propose an amendment to the
29.22 stewardship plan specifying changes in operations that the producer responsibility
29.23 organization will make that are designed to achieve the following year's targets. An
29.24 amendment filed under this subdivision must be reviewed and approved by the commissioner
29.25 in the manner specified in section 115A.1451, subdivision 5.

29.26 Subd. 3. **Commissioner's report.** By October 15, 2034, and every five years thereafter,
29.27 the commissioner must submit a report to the governor and to the chairs and ranking minority
29.28 members of the legislative committees with jurisdiction over solid waste. The report must
29.29 contain a summary of the operations of the Packaging Waste and Cost Reduction Act during
29.30 the previous five years, a summary of the needs assessment, a summary of information
29.31 gleaned from reports filed under subdivisions 1 and 2, recommendations for policy, statutory,
29.32 or regulatory changes to the program, a list of efforts undertaken by the commissioner to
29.33 enforce and secure compliance with this act, and any other information the commissioner
29.34 deems to be relevant.

30.1 Subd. 4. **Duty to cooperate.** Service providers must provide producer responsibility
 30.2 organizations with data necessary to complete the reports required by this section upon
 30.3 request. Data provided under this paragraph is nonpublic data.

30.4 Sec. 17. **[115A.1457] PRODUCER RESPONSIBILITY ORGANIZATION**
 30.5 **WEBSITES.**

30.6 A producer responsibility organization must maintain a website that uses best practices
 30.7 for accessibility that contains at least:

30.8 (1) information regarding a process that members of the public can use to contact the
 30.9 producer responsibility organization with questions;

30.10 (2) a directory of all service providers operating under the stewardship plan administered
 30.11 by the producer responsibility organization, grouped by location or political subdivision,
 30.12 and information about how to request service;

30.13 (3) registration materials submitted to the commissioner under section 115A.1443;

30.14 (4) the draft and approved stewardship plan and any draft and approved amendments;

30.15 (5) the list of recyclable and compostable materials developed by the commissioner
 30.16 under section 115A.1453;

30.17 (6) the most recent needs assessment and all past needs assessments;

30.18 (7) annual reports filed by the producer responsibility organization;

30.19 (8) a link to administrative rules implementing this act; and

30.20 (9) comments of the advisory board on the documents listed in clauses (4) and (7), and
 30.21 the responses of the producer responsibility organization to those comments.

30.22 Sec. 18. **[115A.1458] ANTICOMPETITIVE CONDUCT.**

30.23 A producer responsibility organization that arranges collection, recycling, composting,
 30.24 or reuse services under this act may engage in anticompetitive conduct to the extent necessary
 30.25 to plan and implement collection, recycling, composting, or reuse systems to meet the
 30.26 obligations under this act, and is immune from liability under state laws relating to antitrust,
 30.27 restraint of trade, and unfair trade practices.

30.28 Sec. 19. **[115A.1459] RULEMAKING.**

30.29 The commissioner may adopt rules to implement this act. The 18-month time limit under
 30.30 section 14.125 does not apply to the commissioner's rulemaking authority under this section.

31.1 **Sec. 20. [115A.1460] PROVIDING INFORMATION.**

31.2 Upon request of the commissioner for purposes of determining compliance with this
31.3 act, a person must furnish to the commissioner any information that the person has or may
31.4 reasonably obtain.

31.5 **Sec. 21. [115A.1461] DEPOSIT RETURN SYSTEM.**

31.6 It is the intent of the legislature that if a bottle deposit return system is enacted in the
31.7 future, it will be harmonized with this act in a manner that ensures that:

31.8 (1) materials covered in that system are exempt from this act or related financial
31.9 obligations are reduced;

31.10 (2) co-location of drop-off facilities and alternative collection sites is maximized; and

31.11 (3) education and outreach is integrated between the two programs.

31.12 **Sec. 22. [115A.1462] ENFORCEMENT.**

31.13 (a) The commissioner must enforce this act as provided under this section and sections
31.14 115.071 and 116.072. The commissioner or attorney general must first issue a corrective
31.15 order in the manner provided under section 116.072, subdivision 4, before pursuing other
31.16 enforcement actions. The commissioner may revoke a registration of a producer responsibility
31.17 organization or producer found to have violated this act.

31.18 (b) Except as otherwise provided in paragraph (c), a person that violates or fails to
31.19 perform a duty imposed by this act or any rule adopted thereunder or a term or condition
31.20 of any registration or permit issued is liable for a civil penalty not to exceed \$25,000 per
31.21 violation for each day during which the violation continues.

31.22 (c) A producer responsibility organization or producer that violates a provision of or
31.23 fails to perform a duty imposed by this act, a rule adopted thereunder, or a term or condition
31.24 of a registration or permit issued, including requirements of a stewardship plan approved
31.25 by the commissioner and performance targets, is liable for a civil penalty not to exceed
31.26 \$25,000 per violation for each day during which the violation continues. For a second
31.27 violation occurring within 12 months of a first violation, a producer responsibility
31.28 organization or producer is liable for a civil penalty not to exceed \$50,000 per violation for
31.29 each day during which the violation continues. For a third or subsequent violation occurring
31.30 within 12 months of a prior violation, a producer responsibility organization or producer is
31.31 liable for a civil penalty not to exceed \$100,000 per violation for each day during which
31.32 the violation continues.

32.1 Sec. 23. [115A.1463] ELECTION OF CERTAIN INDIVIDUAL PRODUCERS TO
32.2 OPERATE INDEPENDENTLY.

32.3 Notwithstanding any provision of this act to the contrary, an individual producer who
32.4 represents at least five percent of the market share of covered materials sold into this state
32.5 by weight, or by the relevant unit of measurement established under section 115A.1451,
32.6 may elect to operate independently under this act instead of pursuant to a written agreement
32.7 with a producer responsibility organization. A producer that elects to operate independently
32.8 under this section must perform all of the duties of both a producer and a producer
32.9 responsibility organization under this act, as determined by the commissioner.

32.10 Sec. 24. WORKPLACE CONDITIONS AND EQUITY STUDY.

32.11 (a) By January 1, 2032, the commissioner must contract with an independent third party
32.12 to conduct a study of the recycling, composting, and reuse facilities operating in the state.
32.13 The study must analyze, at a minimum information about:

32.14 (1) working conditions, wage and benefit levels, and employment levels of minorities
32.15 and women at those facilities;

32.16 (2) barriers to ownership of recycling, composting, and reuse operations faced by women
32.17 and minorities;

32.18 (3) the degree to which residents of multifamily buildings have less convenient access
32.19 to recycling, composting, and reuse opportunities than those living in single-family homes;

32.20 (4) the degree to which environmental justice areas have access to fewer recycling,
32.21 composting, and reuse opportunities compared to other parts of the state;

32.22 (5) the degree to which programs to increase access, convenience, and education are
32.23 successful in raising reuse, recycling, and composting rates in areas where participation in
32.24 these activities is low;

32.25 (6) strategies to increase participation in reuse, recycling, and composting; and

32.26 (7) the degree to which residents and workers in environmental justice areas are impacted
32.27 by emissions, toxic substances, and other pollutants from solid waste facilities in comparison
32.28 to other areas of the state and provide recommendations to mitigate those impacts.

32.29 (b) The initial producer responsibility organization registered by the commissioner must
32.30 cover the cost of conducting the study through its annual registration fee and recommended
32.31 actions identified in the study must be incorporated into the future stewardship plans as
32.32 required under Minnesota Statutes, section 115A.1451, including adjustments to service

33.1 provider agreements and reimbursements as established under Minnesota Statutes, section
33.2 115A.1455.

33.3 Sec. 25. **COVERED MATERIALS POLLUTION AND CLEANUP STUDY.**

33.4 (a) By January 1, 2032, the commissioner, in consultation with the commissioners of
33.5 health and natural resources, must contract with an independent third party to conduct a
33.6 study to identify the contribution of covered products to litter and water pollution in
33.7 Minnesota. The report must at a minimum:

33.8 (1) analyze historical and current environmental and human health impacts of littered
33.9 covered materials and their associated toxic substances in the environment;

33.10 (2) estimate the cost of cleanup and prevention; and

33.11 (3) provide recommendations for how to reduce and mitigate the impacts of litter in the
33.12 state.

33.13 (b) The contracted third party must consult with units of local government, the
33.14 commissioners of health and natural resources, and environmental justice organizations.

33.15 (c) The initial producer responsibility organization registered by the commissioner must
33.16 cover the cost of conducting the study through its annual registration fee and recommended
33.17 actions identified in the study must be incorporated into future stewardship plans, as required
33.18 under Minnesota Statutes, section 115A.1451.