

First Regular Session
Seventy-third General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 21-0597.01 Richard Sweetman x4333

SENATE BILL 21-180

SENATE SPONSORSHIP

Priola and Zenzinger, Jaquez Lewis, Lundeen

HOUSE SPONSORSHIP

Bird and Titone, Soper

Senate Committees

Business, Labor, & Technology
Finance
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING A REPORT TO BE SUBMITTED TO THE GENERAL ASSEMBLY**
102 **BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**
103 **REGARDING POST-CONSUMER RECYCLED CONTENT**
104 **RECOMMENDATIONS FOR PACKAGING, AND, IN CONNECTION**
105 **THEREWITH, MAKING AN APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill creates the Colorado recycling and composting infrastructure enterprise (enterprise) within the department of public

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
3rd Reading Unamended
May 19, 2021

SENATE
Amended 2nd Reading
May 18, 2021

health and environment (department) to develop and modernize the recycling and composting infrastructure in the state. The enterprise is authorized to issue revenue bonds.

The bill creates the Colorado recycling and composting infrastructure enterprise grant program (grant program) within the department to provide grants to eligible entities to:

- Create new or expand existing recycling, recovery, and composting operations;
- Create markets for recycled materials, including the use of food service packaging as feedstock in the production of new products; and
- Facilitate recycling, composting, litter cleanup, and education efforts concerning recycling and composting practices.

The bill creates the Colorado recycling and composting infrastructure enterprise board (enterprise board) to administer the grant program and submit an annual report concerning the grant program.

The bill creates the Colorado recycling and composting infrastructure enterprise grant program cash fund (cash fund) and requires the enterprise board to award grants from the cash fund.

The bill allows the executive board to promulgate rules to implement the grant program and requires the solid and hazardous waste commission (commission) to promulgate rules establishing a process for calculating the rates at which common types of food service packaging are being recycled or composted in the state, based on recently available data. On or before January 1, 2025, the commission must use the process to calculate such rates. Thereafter, the commission must recalculate each rate at least every 2 years. The enterprise board must evaluate the rates and advise the commission regarding their accuracy.

The bill requires the enterprise to determine and impose a fee on food service packaging that is initially sold or offered for sale in the state, as follows:

- On and after January 1, 2022, and until January 1, 2030, the enterprise shall impose a fee in an amount to be determined by the enterprise but which may not exceed three-tenths of a cent on each unit of the food service packaging;
- On and after January 1, 2030, and until January 1, 2035, if the food service packaging is a type of food service packaging for which the commission has calculated a recycling or composting rate that is less than 50%, the enterprise shall impose a fee in an amount to be determined by the enterprise but which may not exceed six-tenths of a cent on each unit of the food service packaging; and
- On and after January 1, 2035, if the food service packaging is a type of food service packaging for which the

commission has calculated a recycling or composting rate that is less than 75%, the enterprise shall impose a fee in an amount to be determined by the enterprise but which may not exceed one cent on each unit of the food service packaging.

The enterprise shall collect the fee from the distributor that initially sells the food service packaging into the state. All money collected as fees must be deposited into the cash fund.

The bill requires the commission to conduct an assessment of the state's recycling and composting infrastructure on or before January 1, 2022, including examining the types of food service packaging being collected, processed, recycled, or composted in the state.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. In Colorado Revised Statutes, add 25-17-109 as**
3 **follows:**

4 **25-17-109. Stakeholder advisory committee on recycling -**
5 **created - definitions - report - repeal. (1) AS USED IN THIS SECTION,**
6 **UNLESS THE CONTEXT OTHERWISE REQUIRES:**

7 **(a) "COMMITTEE" MEANS THE STAKEHOLDER ADVISORY**
8 **COMMITTEE ON RECYCLING CREATED IN SUBSECTION (2) OF THIS SECTION.**

9 **(b) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH**
10 **AND ENVIRONMENT.**

11 **(c) "RECYCLABLE MATERIALS":**

12 **(I) MEANS ANY TYPE OF DISCARDED OR WASTE MATERIAL THAT IS**
13 **NOT REGULATED UNDER SECTION 25-8-205 (1)(e) AND CAN BE REUSED,**
14 **REMANUFACTURED, RECLAIMED, OR RECYCLED, INCLUDING COMPOSTABLE**
15 **ORGANIC MATERIAL AND CONSTRUCTION AND DEMOLITION MATERIALS;**
16 **AND**

17 **(II) DOES NOT INCLUDE INDUSTRIAL MATERIALS, PAINT, OR A**
18 **WASTE TIRE AS DEFINED IN SECTION 30-20-1402 (12).**

19 **(2) THE STAKEHOLDER ADVISORY COMMITTEE ON RECYCLING IS**

1 CREATED IN THE DEPARTMENT FOR THE FOLLOWING PURPOSES:

2 (a) TO CONDUCT A LITERATURE REVIEW OF VARIOUS POLICY
3 CONCEPTS, INCLUDING POLICIES ENACTED OR BEING CONSIDERED IN OTHER
4 STATES AND OTHER NATIONS RELATIVE TO POST-CONSUMER RECYCLED
5 CONTENT REQUIREMENTS FOR PACKAGING;

6 (b) TO REVIEW RATES AND TIME FRAMES IN WHICH
7 POST-CONSUMER RECYCLED CONTENT, INCLUDING RECYCLED PLASTIC,
8 GLASS, STEEL, AND PAPER, MAY BE FEASIBLY REQUIRED FOR ALL
9 PACKAGING APPLICATIONS AND MATERIALS; AND

10 (c) TO SUBMIT A REPORT ON OR BEFORE JULY 1, 2022, TO THE
11 ENERGY AND ENVIRONMENT COMMITTEE OF THE HOUSE OF
12 REPRESENTATIVES AND THE HEALTH AND HUMAN SERVICES COMMITTEE OF
13 THE SENATE, OR TO ANY SUCCESSOR COMMITTEE, WHICH REPORT
14 INCLUDES POLICY AND LEGISLATIVE RECOMMENDATIONS REGARDING THE
15 FEASIBILITY OF IMPLEMENTING POST-CONSUMER RECYCLED CONTENT
16 REQUIREMENTS FOR PACKAGING. THE REPORT MUST INCLUDE
17 RECOMMENDATIONS IN SUBJECT MATTER AREAS WHERE THE COMMITTEE
18 ACHIEVED CONSENSUS AND NOTE DISSENTING OPINIONS IN SUBJECT
19 MATTER AREAS WHERE THE COMMITTEE FAILED TO ACHIEVE CONSENSUS
20 CONCERNING THE FOLLOWING:

21 (I) DEFINITIONS OF TERMS;

22 (II) METHODS FOR DETERMINING RESPONSIBLE PARTIES;

23 (III) METHODS FOR DETERMINING, REPORTING, AND CERTIFYING
24 COMPLIANCE WITH REQUIREMENTS CONCERNING THE RECYCLING OF
25 RECYCLABLE MATERIALS;

26 (IV) METHODS FOR ESTABLISHING MANDATORY RECYCLING
27 RATES, INCLUDING CONSIDERATION OF MATERIAL TYPES AND TARGET

1 IMPLEMENTATION DATES;
2 (V) METHODS FOR VERIFYING CLAIMS REGARDING RECYCLED
3 CONTENT;
4 (VI) REGISTRATION OF MANUFACTURERS AND DISTRIBUTORS;
5 (VII) ENFORCEMENT; AND
6 (VIII) EXEMPTIONS AND EXCEPTIONS.
7 (3) ON OR BEFORE AUGUST 1, 2021, THE EXECUTIVE DIRECTOR OF
8 THE DEPARTMENT, OR THE EXECUTIVE DIRECTOR'S DESIGNEE, SHALL
9 APPOINT MEMBERS TO THE COMMITTEE TO REPRESENT STAKEHOLDER
10 GROUPS INCLUDING:
11 (a) THE DEPARTMENT;
12 (b) CITIES, INCLUDING SMALL AND LARGE CITIES AND CITIES
13 LOCATED IN URBAN AND RURAL COUNTIES;
14 (c) COUNTIES, INCLUDING SMALL AND LARGE COUNTIES AND
15 URBAN AND RURAL COUNTIES;
16 (d) AN ENTITY IN THE WASTE AND RECYCLING INDUSTRY THAT
17 OWNS OR OPERATES A CURBSIDE RECYCLING PROGRAM;
18 (e) A MATERIAL RECOVERY FACILITY OPERATOR THAT PROCESSES
19 MUNICIPAL SOLID WASTE FROM CURBSIDE RECYCLING PROGRAMS;
20 (f) RECYCLED PLASTIC FEEDSTOCK USERS;
21 (g) A TRADE ASSOCIATION REPRESENTING THE PLASTICS
22 RECYCLING INDUSTRY;
23 (h) A RECYCLED CONTENT CERTIFICATION ORGANIZATION;
24 (i) A NONPROFIT ENVIRONMENTAL ORGANIZATION THAT
25 SPECIALIZES IN WASTE AND RECYCLING ISSUES;
26 (j) PLASTIC CONVERTERS AND MANUFACTURERS OF RESINS;
27 (k) A MANUFACTURER OF PLASTIC PACKAGING;

- 1 (l) A STATEWIDE BUSINESS TRADE ASSOCIATION;
- 2 (m) AN ASSOCIATION THAT REPRESENTS CONSUMER BRAND
- 3 COMPANIES;
- 4 (n) A CONSUMER-ORIENTED ORGANIZATION;
- 5 (o) A STATEWIDE ASSOCIATION OF RETAILERS; AND
- 6 (p) AN ADVANCED RECYCLING TECHNOLOGY PROVIDER THAT
- 7 PROCESSES PLASTIC MATERIAL; ___
- 8 (q) A MEMBER WHO HAS EXPERIENCE IN ENVIRONMENTAL JUSTICE
- 9 AND REPRESENTING UNDERSERVED COMMUNITIES; AND
- 10 (r) A TRADE ASSOCIATION REPRESENTING THE GLASS CONTAINER
- 11 MANUFACTURING INDUSTRY.

12 (4) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OR THE
13 EXECUTIVE DIRECTOR'S DESIGNEE SHALL APPOINT A MEMBER OF THE
14 COMMITTEE TO CHAIR THE COMMITTEE, AND ON OR BEFORE SEPTEMBER 1,
15 2021, THE CHAIR SHALL CONVENE THE COMMITTEE.

16 (5) THIS SECTION IS REPEALED, EFFECTIVE AUGUST 1, 2022.

17 **SECTION 2. Appropriation.** For the 2021-22 state fiscal year,
18 \$139,775 is appropriated to the department of public health and
19 environment for use by the division of environmental health and
20 sustainability. This appropriation is from the general fund and is based on
21 an assumption that the division will require an additional 0.5 FTE. To
22 implement this act, the division may use this appropriation for the
23 recycling resources economic opportunity program.

24 **SECTION 3. Safety clause.** The general assembly hereby finds,
25 determines, and declares that this act is necessary for the immediate
26 preservation of the public peace, health, or safety.