

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

S.F. No. 2939

(SENATE AUTHORS: MCEWEN)

DATE
03/15/2023

D-PG

Introduction and first reading
Referred to Environment, Climate, and Legacy

OFFICIAL STATUS

1.1 A bill for an act
1.2 relating to environment; prohibiting misleading claims regarding product or
1.3 packaging recyclability; requiring creation of recyclable materials list; proposing
1.4 coding for new law in Minnesota Statutes, chapter 115A.

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

1.6 Section 1. **[115A.5503] TRUTH IN LABELING FOR RECYCLABLE PRODUCTS.**

1.7 Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have
1.8 the meanings given.

1.9 (b) "Chasing arrows symbol" means an equilateral triangle, formed by three arrows
1.10 curved at their midpoints, depicting a clockwise path, with a clear gap separating the apex
1.11 of each arrow from the base of the adjacent arrow. Chasing arrows symbol includes variants
1.12 of that symbol, including but not limited to one or more arrows arranged in a circular pattern
1.13 or around a globe, that are likely to be interpreted by a consumer as implying that the product
1.14 or packaging labeled with the chasing arrows symbol is recyclable.

1.15 (c) "Design features" means any physical characteristic of a specific product or packaging
1.16 that may affect its recyclability, including but not limited to its material, size, shape, or
1.17 color.

1.18 (d) "Intentionally added PFAS" means perfluoroalkyl or polyfluoroalkyl substances
1.19 (PFAS) that are intentionally added to a product by a manufacturer and that have a functional
1.20 or technical effect on the product. Intentionally added PFAS includes PFAS that are
1.21 breakdown products of a chemical intentionally added to the product.

2.1 (e) "Labeling" means printing, embossing, or otherwise attaching information to a product
2.2 or packaging.

2.3 (f) "Packaging" means a container and any material that provide a means of transporting,
2.4 marketing, protecting, or handling a product. Packaging includes the packaging's design
2.5 features.

2.6 (g) "Product" means any physical object sold or distributed in commerce. Product includes
2.7 the product's design features.

2.8 Subd. 2. **Recyclable materials list.** (a) No later than January 1, 2026, the commissioner
2.9 must develop and adopt rules under chapter 14 establishing a list of packaging and products
2.10 that the commissioner determines, after considering the design features of the product or
2.11 packaging and applying the criteria under subdivision 3, are recyclable in this state.

2.12 (b) The commissioner must post a copy of the recyclable materials list on the agency's
2.13 website.

2.14 (c) The recyclable materials list may not limit the authority of a local unit of government
2.15 to determine the packaging and products that a waste collection and recycling program
2.16 operated by the local unit of government may accept.

2.17 (d) The commissioner must review and may amend the recyclable materials list at least
2.18 every three years.

2.19 (e) A manufacturer, wholesaler, or retailer may request the commissioner to consider
2.20 placing a product or packaging on the materials recycling list by submitting to the
2.21 commissioner in writing the reasons why the product or packaging meets the recyclability
2.22 criteria established in subdivision 3.

2.23 Subd. 3. **Recyclability criteria.** A product or packaging is considered recyclable in the
2.24 state if, as determined by the commissioner, it meets the following criteria:

2.25 (1) at least 60 percent of the state's population reside within local units of government
2.26 that regularly collect and separate the product or packaging as part of a residential recycling
2.27 program;

2.28 (2) at least 90 percent of the volume of product or packaging in the state is regularly
2.29 sorted and aggregated into defined streams for recycling;

2.30 (3) the product or packaging is listed as a separate specification in the most recent version
2.31 of the Scrap Specifications Circular published by the Institute for Scrap Recycling Industries;

3.1 (4) at least 75 percent of the volume of product or packaging in the state is recycled into
3.2 feedstock that is used to make new products, excluding fuels;

3.3 (5) the product or packaging is recycled in sufficient quantity and is of sufficient quality
3.4 to maintain a market value;

3.5 (6) any plastic packaging or plastic product does not include components, inks, adhesives,
3.6 or labels that prevent the recyclability of the packaging, as determined by the most recent
3.7 version of APR Design Guide published by the Association of Plastic Recyclers;

3.8 (7) the packaging or product does not contain an intentionally added chemical prohibited
3.9 under section 115A.965; and

3.10 (8) the packaging or product does not contain intentionally added PFAS or PFAS
3.11 measured at or above 100 parts per million, as measured in total organic fluorine.

3.12 **Subd. 4. Deceptive recyclability claims prohibited.** (a) Except as provided in paragraph
3.13 (c), displaying a chasing arrows symbol or any other statement on a product or packaging
3.14 indicating that a product or packaging that is not on the recyclable materials list is recyclable
3.15 is a deceptive or misleading claim under this section and section 325F.69, subdivision 1.

3.16 (b) No person may offer for sale, sell, distribute, or import in or into the state a product
3.17 or packaging for which a deceptive or misleading claim about the recyclability of the product
3.18 or packaging is made.

3.19 (c) Paragraph (a) does not apply to:

3.20 (1) a product or packaging that is not on the initial recyclable materials list compiled by
3.21 the commissioner under subdivision 2, for 180 days after the initial recyclable materials list
3.22 is published;

3.23 (2) a product or packaging that is removed from the recyclable materials list after
3.24 commissioner review, for 180 days after the removal;

3.25 (3) a product or packaging containing a chasing arrows symbol with a clearly visible
3.26 line placed at a 135 degree angle over the chasing arrows symbol indicating that the item
3.27 is not recyclable;

3.28 (4) a product required under federal or Minnesota law to display a chasing arrows symbol;
3.29 or

3.30 (5) a statement on a product or packaging that does not contain a chasing arrows symbol
3.31 and is not on the materials recyclable list but that directs a consumer to take any of the
3.32 following actions:

- 4.1 (i) compost the product or packaging through an organics recycling program;
- 4.2 (ii) recycle or properly dispose of hazardous materials through a local drop-off program;
- 4.3 (iii) recycle or properly dispose of batteries as directed in section 325E.125; or
- 4.4 (iv) properly recycle electronic waste as directed in sections 115A.1310 to 115A.1330.
- 4.5 (d) If a product or packaging is composed of multiple materials, a chasing arrows symbol
- 4.6 or statement must make clear, in type or chasing arrow symbols of the same font size as the
- 4.7 symbol or the statement, which components are and are not recyclable.
- 4.8 Subd. 5. **Enforcement.** The commissioner may enforce this section under section 115.071
- 4.9 or 116.072. The attorney general may enforce this section under section 325F.70.
- 4.10 **EFFECTIVE DATE.** This section is effective the day following final enactment.