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LC001525

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO HEALTH AND SAFETY - REDUCE MARINE DEBRIS AND PRESERVE  
LANDFILL SPACE WHILE INCREASING THE RECYCLING OF POST-CONSUMER  
PACKAGING MATERIAL

Introduced By: Representatives Winfield, and Carson

Date Introduced: February 16, 2017

Referred To: House Environment and Natural Resources

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 23 of the General Laws entitled "HEALTH AND SAFETY" is hereby  
2 amended by adding thereto the following chapter:

3 CHAPTER 18.18

4 REDUCTION OF MARINE DEBRIS AND PRESERVE LANDFILL SPACE WHILE  
5 INCREASING THE RECYCLING OF POST-CONSUMER PACKAGING MATERIAL

6 **23-18.18-1. Short title.**

7 This chapter shall be known and may be cited as the "Rhode Island marine debris  
8 reduction act."

9 **23-18.18-2. Purpose.**

10 The purposes of this chapter are:

11 (1) To reduce the amount of post-consumer packaging that ends up as marine and beach  
12 debris;

13 (2) To increase statewide recovery rates of post-consumer packaging materials for reuse  
14 and recycling programs;

15 (3) To establish a manufacturer financed system to increase the collection, recycling and  
16 reuse of discarded post-consumer packaging materials;

17 (4) To promote the development of infrastructure for the reuse and recycling of discarded  
18 post-consumer packaging materials;

1 (5) To minimize costs incurred by Rhode Island municipalities to collect, dispose of, or  
2 recycle discarded post-consumer packaging materials;

3 (6) To encourage the reduction of packaging for consumer goods and, alternatively, the  
4 use of more reusable and recyclable materials in the packaging of consumer goods;

5 (7) To research baseline marine litter data in Rhode Island and develop and fund new  
6 programs to prevent further degradation and monitoring statewide progress.

7 **23-18.18-3. Findings.**

8 The general assembly hereby finds and declares:

9 (1) The state of Rhode Island plays an integral role in protecting its coast and ocean  
10 waters. The "Rhode Island marine debris reduction act" recognizes the necessity of reducing the  
11 amount of unrecovered post-consumer packaging found as waste and litter at our beaches, on our  
12 coasts, in the bay, in our storm drains, and in the surrounding ocean.

13 (2) Current data shows that up to eighty percent (80%) or more of marine debris is  
14 attributable to land-based sources. Of the debris that ends up in our water resources, as much as  
15 two-thirds (2/3) originates as post-consumer packaging materials.

16 (3) Municipal governments and taxpayers currently bear the entire cost associated with  
17 managing plastics packaging, including its collection for recycling, beach clean-ups and disposal  
18 in landfills. Municipal governments in Rhode Island are struggling financially and the costs of  
19 bearing sole responsibility for collecting post-consumer packaging material is coming at the  
20 expense of funding for police and fire protection, teachers and education and other essential  
21 government services.

22 (4) Many governments throughout the world require the producers of post-consumer  
23 packaging to pay for collection, recovery and recycling to help reduce the cost burden of  
24 managing post-consumer packaging materials, encourage recycling, and educate consumers about  
25 how to dispose of their products and attendant packaging.

26 (5) Rhode Island municipalities representing over half of the state's population have  
27 passed resolutions to support industry financing for the collection, processing and recycling of  
28 their post-consumer materials. It is critically important that Rhode Island benefit from industry's  
29 financial support, experience and assistance to capture more of these materials for reuse and  
30 recycling before they are brought to the landfill or left as litter on our roads, rivers and beaches,  
31 resulting in marine debris.

32 **23-18.18-4. Definitions.**

33 The words and phrases defined in this section shall be controlling in all local ordinances,  
34 regulations and rules created under this chapter.

1           (1) "Brand" means a name, symbol, word or mark that identifies a product and attributes  
2 the product to the owner of the brand as the producer.

3           (2) "Department" means the Rhode Island department of environmental management.

4           (3) "Packaging" means materials that are used for the containment, protection, handing,  
5 delivery, and presentation of goods sold or delivered in the state.

6           (4) "Post-Consumer" means the material that would normally be discarded as municipal  
7 solid waste having completed its life cycle as a consumer item.

8           (5) "Producer" means a person:

9           (i) Who manufactures materials used in the packaging of consumer goods and sells,  
10 offers to sell, or distributes in Rhode Island under the manufacture's own name or brand;

11           (ii) If subsection (5)(i) of this section does not apply, who is not the manufacturer of the  
12 packaging material but is the owner or licensee of a trademark or brand under which the material  
13 is sold or distributed in Rhode Island, whether or not the trademark is registered;

14           (iii) If subsections (5)(i) and (5)(ii) of this section do not apply, who imports the  
15 packaging material into Rhode Island for sale or distribution; or

16           (iv) Who sells at wholesale or retail a designated material, does not have legal ownership  
17 of the brand, and elects to fulfill the responsibilities of the producer for that product.

18           (6) "Producer responsibility organization" means an organization designated by a group  
19 of producers to act as an agent on behalf of each producer to develop and operate a producer  
20 responsibility program for packaging and printed paper.

21           (7) "Program plan" means a detailed plan that describes the manner in which producers  
22 shall arrange for the collection and recycling of post-consumer plastic.

23           (8) "Recycling" means the process of collecting and preparing designated material for use  
24 in manufacturing processes or for recovery of usable materials followed by delivery of such  
25 materials for use as standalone material input, as a replacement for, or supplement to, raw  
26 materials. Recycling does not include destruction by incineration; waste-to-energy incineration,  
27 conversion into a fuel or other such processes; or landfill disposal.

28           (9) "Recycling rate" means the percentage of packaging sold, offered for sale, delivered,  
29 or distributed to households that is collected, processed, and delivered for use in manufacturing  
30 processes for use as standalone material input, as a replacement for, or supplement to, raw  
31 materials.

32           **23-18.18-5. Recycling of post-consumer packaging.**

33           (a) Producers of packaging, or a producer responsibility organization acting as a  
34 designated agent, are required to develop and submit a program plan to the department within

1 twelve (12) months of the passage of this chapter that arranges for and finances the collection and  
2 recycling of post-consumer packaging as described within this section.

3 (b) The submitted plan shall, at a minimum:

4 (1) Indicate how producers of post-consumer packaging shall achieve a recycling rate of  
5 eighty percent (80%) for each type of packaging by the year 2020;

6 (2) Identify the packaging materials that any producer, or producer responsibility  
7 organization, is taking responsibility. For each material identified, the producer or producer  
8 responsibility organization will outline how they will achieve a recycling rate of no less than  
9 eighty percent (80%) target by weight by the year 2020;

10 (3) Include an explanation of the process for determining how much packaging is sold  
11 into the state each year, and determining the amount of material recovered and recycled;

12 (4) Include a financing structure that is sufficient to cover the cost of developing the plan,  
13 operating to program and maintaining a financial reserve sufficient to operate the program in a  
14 fiscally prudent and responsible manner;

15 (5) Include a description of the public education program to develop awareness of this  
16 program and invest the public in participation;

17 (6) Indicate how the producers, or the producer responsibility organization, will work  
18 with municipalities and the Rhode Island resource recovery corporation to operate and/or expand  
19 current collection programs that are just as or more convenient to Rhode Island residents;

20 (7) Indicate how the producers, or the producer responsibility organization, will work  
21 with the Rhode Island economic development corporation, or its assigns and successors, to  
22 identify ways in which the state can motivate local infrastructure investment, business  
23 development and job creation related to the collection, transportation and processing of post-  
24 consumer packaging materials;

25 (8) Include a program to work with local, regional and national groups that collect beach  
26 and marine debris to determine baseline data on what types of materials end up as beach and  
27 marine debris and the methods by which it travels from manufacturer to discarding on public land  
28 in order to identify the most effective ways that this public nuisance can be currently mitigated  
29 and provide for future prevention;

30 (9) The plan must allow for on-going monitoring of the incidents of post-consumer  
31 packaging as beach and marine debris and include funding for effective and efficient beach and  
32 marine litter abatement programs.

33 (c) Waste incineration, waste-to-energy or waste-to-fuel conversion is not a form of  
34 recycling or a means to reach this goal.

1 (d) Consultation required. A producer or group of producers shall consult with  
2 stakeholders during the development of the plan, solicit stakeholder comments, and attempt to  
3 address any stakeholder concerns regarding the plan before submitting the plan to the department  
4 for review.

5 (e) Not later than ninety (90) days after the submission of a plan pursuant to this section,  
6 the department shall make a determination whether to:

7 (1) Approve the plan as submitted;

8 (2) Approve the plan with conditions; or

9 (3) Deny the plan.

10 (f) Not later than six (6) months after the date the plan is approved, the producers, or  
11 producer responsibility organization, shall implement the approved plan.

12 (g) Not later than the implementation date of the program, the department shall list the  
13 names of participating producers and the brands covered by the approved program.

14 (h) Within twenty-four (24) months of the passage of this chapter, no producer,  
15 distributor or retailer shall sell or offer for sale any packaging materials to any person in this state  
16 if the producer of such materials has not had a plan approved by the department independently or  
17 through a producer responsibility organization.

18 (i) Producers of packaging shall submit an annual report to the department, by March 15,  
19 each year the program plan is in operation, which shall include information and data from the  
20 process for determining how much packaging is sold into the state each year, and determining the  
21 amount of material recovered and recycled. Such audit will also include a review of fees assessed  
22 and expenses incurred to ensure that it is consistent with the budget contained within the plan  
23 described in this section. This information may be audited by the department by an independent  
24 auditor chosen by the department, and paid under the plan outlined in this section.

25 **23-18.18-6. Regulations.**

26 The department is hereby authorized to promulgate rules and regulations as may be  
27 necessary to implement and carry out the provisions of this chapter.

28 **23-18.18-7. Enforcement.**

29 Failure to achieve a recycling rate for a specific material-type established by or pursuant  
30 to §23-18.8-5(b) shall obligate the producers covered under the material-type to make available  
31 not more than one million dollars (\$1,000,000) per year of noncompliance, to the department. The  
32 department shall deposit the funds received from producers into an expendable trust for grants for  
33 market development related to the collection and recycling of the material type. Producers'  
34 individual contributions shall not exceed their respective market shares of packaging sold in the

1 [state.](#)

2 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

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RELATING TO HEALTH AND SAFETY - REDUCE MARINE DEBRIS AND PRESERVE  
LANDFILL SPACE WHILE INCREASING THE RECYCLING OF POST-CONSUMER  
PACKAGING MATERIAL

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- 1           This act would create the Rhode Island marine debris act for the purpose of reducing the
- 2 amount of post-consumer packaging that ends up as marine and beach debris.
- 3           This act would take effect upon passage.

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