



General Assembly

February Session, 2022

Raised Bill No. 115

LCO No. 1271



Referred to Committee on ENVIRONMENT

Introduced by:
(ENV)

***AN ACT CONCERNING EXTENDED PRODUCER RESPONSIBILITY
FOR CONSUMER PACKAGING.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (*Effective October 1, 2022*) For the purposes of this section:

2 (1) "Break-even point" means the minimum number of reuses after
3 which a covered material designed for reuse is environmentally
4 preferable to a comparable covered material intended for discard after
5 a single use;

6 (2) "Commissioner" means the Commissioner of Energy and
7 Environmental Protection;

8 (3) "Covered materials" means packaging, packaging-like products
9 and paper. "Covered materials" does not include any material that could
10 become unsafe or unsanitary to recycle by virtue of the anticipated use
11 of the material or design of the material, as determined by the
12 stewardship plan approved pursuant to this section;

13 (4) "Department" means the Department of Energy and

14 Environmental Protection;

15 (5) "Packaging" means any container or material used for the
16 containment, protection, handling, delivery or presentation of goods
17 that are intended for the consumer market, including through an
18 internet transaction. "Packaging" does not include: (A) Any container or
19 material used for the multiyear protection or storage of a product; (B)
20 any beverage container subject to the provisions of section 22a-243 of
21 the general statutes; (C) any container for architectural paint, as defined
22 in section 22a-904 of the general statutes, that is recycled through a paint
23 stewardship program that is in operation and that has been approved
24 by the department pursuant to section 22a-904a of the general statutes;
25 or (D) any other containers or materials collected through any other
26 stewardship program;

27 (6) "Packaging-like products" means the following products that are
28 intended for the consumer market, including through an Internet
29 transaction, that are not packaging and are ordinarily discarded after a
30 single use or short-term use, whether or not they could be reused: (A)
31 Food containers, including, but not limited to, take-out food containers,
32 (B) foil and wraps, (C) bags, (D) boxes, (E) straws and items used to stir
33 beverages, (F) utensils, plates, bowls and cups, (G) party supplies, and
34 (H) objects purchased by or supplied to consumers expressly for the
35 purpose of protecting, containing or transporting commodities or
36 products;

37 (7) "Packaging stewardship program" or "program" means a program
38 implemented under this section by a responsible party or stewardship
39 organization;

40 (8) "Paper materials" means paper that is not packaging and that is
41 printed with text or graphics or intended to be printed with text or
42 graphics as a medium for communicating information, including, but
43 not limited to: (A) Newsprint and inserts; (B) magazines and catalogs;
44 (C) paper used for copying, writing, or other general use; (D) telephone
45 directories; (E) flyers; (F) brochures; and (G) booklets. "Paper materials"

46 does not include bound reference, literary or text books;

47 (9) "Stewardship plan" or "plan" means a plan described in subsection
48 (e) of this section that describes the manner in which a packaging
49 stewardship program will be administered and operated;

50 (10) "Post-consumer recycled content" means a material or product
51 that was made or manufactured from materials that have completed
52 their intended end use and product life cycle, from households or by
53 commercial, industrial or institutional facilities and that have been
54 separated from the solid waste stream for the purposes of collection and
55 recycling. "Post-consumer recycled content" does not include secondary
56 waste material or materials and by-products generated from, and
57 commonly used within, an original manufacturing and fabrication
58 process;

59 (11) "Reasonable rate" means the funding rate calculated and
60 dispersed by a responsible party or stewardship organization using a
61 formula approved by the Commissioner of Energy and Environmental
62 Protection and that may vary for: (A) Any municipality that elects to
63 collect, transport, process and market covered materials through its own
64 municipal crew or fleet, (B) any municipality that elects to provide for
65 collection, transportation, processing and marketing of covered
66 materials through a contract with a service provider, or (C) a service
67 provider that collects, transports, processes and markets covered
68 materials through a subscription. "Reasonable rate" for a municipality
69 includes consideration of (i) the cost to collect, transport, process and
70 market covered materials, (ii) the cost to collect and transport covered
71 materials, container rental and fund staff at a transfer station, and (iii)
72 population density of the municipality;

73 (12) "Recycling" means the transforming or remanufacturing of a
74 covered material or a covered material's components and by-products
75 into usable or marketable materials in lieu of virgin materials.
76 "Recycling" does not include landfill disposal, incineration, energy
77 recovery or energy generation by means of combustion, or final

78 conversion to a fuel, of a covered material or covered material's
79 components and by-products. "Recycling" for plastics includes a fuel
80 that is converted to a raw material that is used for the manufacture of
81 new products.

82 (13) "Recycled" means: (A) For sorted glass, that such material does
83 not require further processing before entering a glass furnace or before
84 use in the production of filtration media, abrasive materials, glass fiber
85 insulation or construction materials; (B) for sorted metal, the material
86 does not require further processing before entering a smelter or furnace;
87 (C) for sorted paper, the material does not require further processing
88 before entering a pulping operation; and (D) for sorted plastic, the
89 material does not require further processing before entering a
90 pelletization, extrusion or molding operation or, in the case of plastic
91 flakes, the material does not require further processing before use in a
92 final product;

93 (14) "Responsible party" means any person that is determined to be
94 the responsible party for a covered material, as described in subsection
95 (b) of this section;

96 (15) "Retailer" means any person who sells or offers for sale a product
97 to a consumer, including sales made through an Internet transaction to
98 be delivered to a consumer in this state;

99 (16) "Reuse" or "reusable" means, with respect to a covered material,
100 that the covered material (A) is capable of being refilled or reused for its
101 original purpose and the responsible party or a designated third party
102 for that covered material provides a program for the consumer to refill
103 the covered material; or (B) the responsible party or a designated third
104 party for that covered material provides a program where the covered
105 material is collected and refilled or reused by the responsible party or
106 another responsible party provided such program meets or exceeds any
107 recovery, recycling and reuse performance goals established pursuant
108 to this section and such covered materials are designed to be reused and
109 refilled within the material's lifecycle to the break-even point with a

110 comparable discarded covered material;

111 (14) "Stewardship organization" means a nonprofit organization,
112 association or entity that assumes the responsibilities, obligations and
113 liabilities under this section of multiple responsible parties for covered
114 materials;

115 (b) The responsible party for a covered material shall be determined
116 as follows:

117 (1) For covered materials sold or distributed at a physical retail
118 location in the state: (A) The responsible party is the person who
119 manufactures the covered material or good sold in covered material if
120 the covered material or good is sold under the manufacturer's own
121 brand or is sold in covered materials that lack identification of a brand;
122 (B) if the covered material or good is manufactured by a person other
123 than the brand owner, the responsible party is the person that is the
124 licensee of a brand or trademark under which the covered material or
125 good is used in a commercial enterprise, sold, offered for sale or
126 distributed in or into this state, whether or not the trademark is
127 registered in this state; and (C) if there is no person described in
128 subparagraph (A) or (B) of this subdivision within the United States, the
129 responsible party is the person that imports the covered material or
130 good into the United States for use in a commercial enterprise that sells,
131 offers for sale or distributes the covered material or good into this state.

132 (2) For covered materials sold or distributed in or into this state via
133 remote sale or distribution: (A) The responsible party for a covered
134 material used to directly protect or contain a good, whether or not the
135 good is a covered material, is the same as the responsible party for
136 purposes of subdivision (1) of this subsection, and (B) the responsible
137 party for the covered material used to ship a good to a consumer,
138 whether or not the good is a covered material, is the person that ships
139 the covered material or good to the consumer.

140 (c) On or before January 1, 2024, any responsible party or stewardship
141 organization authorized to operate and administer a program on its

142 behalf that intends to submit a stewardship plan pursuant to subsection
143 (e) of this section shall register with the Commissioner of Energy and
144 Environmental Protection provided any responsible party or
145 stewardship organization operating on behalf of responsible parties
146 may submit a registration for approval to the commissioner in
147 accordance with this subsection after January 1, 2024, provided a
148 responsible party only participates in one stewardship organization for
149 each of such party's types of covered materials. Such registration shall
150 be on a form prescribed by the commissioner and shall: (1) Identify each
151 responsible party that intends to authorize the stewardship
152 organization to operate and administer a program on its behalf, (2)
153 provide the name, address and contact information of any person
154 responsible for ensuring the responsible party or stewardship
155 organization and the responsible parties that have authorized the
156 stewardship organization to operate a program on such parties' behalf
157 comply with the requirements of this section, and (3) describe a study
158 conducted by a third-party that the responsible party or stewardship
159 organization intends to fund to assess recycling and covered materials
160 management needs in the state. Such study may build on the plan
161 developed pursuant to section 22a-228 of the general statutes to assess,
162 but not be limited to, (A) the current rates for the performance goals
163 described in this section, to the extent available, (B) current funding
164 needs affecting recycling access and availability in the state, (C) the
165 capacity, costs and needs associated with the collection, transportation
166 and processing of covered materials in the state, and (D) consumer
167 education needs in the state with respect to recycling and reducing
168 contamination in collected covered materials. The Commissioner of
169 Energy and Environmental Protection shall make a determination
170 whether to approve the study required by this subdivision. In the event
171 that the commissioner disapproves such study because it does not meet
172 the requirements of this subdivision, the commissioner shall describe
173 the reasons for the disapproval in a notice of determination that the
174 commissioner shall provide to the responsible party or stewardship
175 organization. The responsible party or stewardship organization shall
176 revise and resubmit the study to the commissioner not later than thirty

177 days after receipt of notice of the commissioner's disapproval notice.
178 Not later than thirty days after receipt of the revised study, the
179 commissioner shall review and approve or disapprove the revised
180 study, and provide a notice of determination to the responsible party or
181 stewardship organization. The responsible party or stewardship
182 organization may resubmit a revised study to the commissioner for
183 approval on not more than one occasion. If the responsible party or
184 stewardship organization fails to submit a study that is acceptable to the
185 commissioner because it does not meet the requirements of subdivision
186 (3) of this subsection, the commissioner shall modify a submitted study
187 to make it conform to the requirements of subdivision (3) of this
188 subsection and approve it. In deciding whether to approve any such
189 study, the commissioner may consider prior registrations submitted by
190 any responsible party or stewardship organization. After the
191 commissioner approves a study, the responsible party or stewardship
192 organization shall cause such study to be conducted.

193 (d) (1) Not later than one hundred eighty days after a responsible
194 party or stewardship organization registers with the Commissioner of
195 Energy and Environmental Protection, the responsible party or
196 stewardship organization shall establish and nominate members to an
197 advisory committee to advise and provide comment to the responsible
198 party or stewardship organization regarding any plan prior to approval,
199 and any substantive changes to a program prior to submission in
200 accordance with the provisions of this section. Such advisory committee
201 shall meet not less than once a year or more frequently as needed, and
202 shall review any plans, revisions to a plan or substantive changes to a
203 plan prior to submission of such plan, revisions or changes to the
204 commissioner in accordance with the provisions of this section. The
205 advisory committee shall assume the responsibilities assigned to it
206 under this section for any and all subsequent responsible parties or
207 stewardship organizations.

208 (2) Any such advisory committee shall include, at a minimum (A) the
209 Commissioner of Energy and Environmental Protection, or the
210 commissioner's designee, (B) a representative from a municipal

211 association or municipal government, (C) a representative of a regional
212 or municipal waste management program, (D) an individual with
213 expertise in the development of recycling markets, (E) a representative
214 of a materials recycling facility located in the state, (F) a representative
215 of waste haulers, or a regional waste management and recycling
216 organization, (G) a representative of a state-wide retail association, (H)
217 a representative of a nonprofit environmental advocacy organization, (I)
218 a representative of a community-based organization or an organization
219 representing equity and underrepresented stakeholders, (J) a
220 representative of a nonprofit organization dedicated to litter cleanup,
221 (K) an individual with expertise in environmental and human health,
222 (L) a representative of a manufacturer of packaging, (M) a
223 representative of a material supplier, and (N) a representative of
224 responsible parties.

225 (3) The Commissioner of Energy and Environmental Protection shall
226 approve all nominations to any such advisory committee and may add
227 new members to such advisory committee at the commissioner's
228 discretion. The commissioner may not approve an advisory committee
229 member to fulfill more than one of the membership categories provided
230 for in subdivision (2) of this subsection.

231 (e) On or before January 1, 2025, a responsible party or a stewardship
232 organization authorized to operate and administer a program on behalf
233 of responsible parties shall submit a stewardship plan for the
234 establishment of a packaging stewardship program described in this
235 subsection to the Commissioner of Energy and Environmental
236 Protection for approval. Any such packaging stewardship program
237 shall: (1) Minimize public sector involvement in the management of
238 covered materials, (2) to the greatest extent technologically feasible and
239 economically practical, manage covered materials in accordance with
240 the sustainable materials management priority provided for in
241 subsection (b) of section 22a-228 of the general statutes, (3) minimize
242 greenhouse gas emissions from the lifecycles of covered materials and
243 from program operation, (4) negotiate and execute agreements to
244 collect, transport and process covered materials using environmentally

245 sound management practices, (5) provide for convenient and accessible
246 state-wide collection of covered materials that shall be at least as
247 convenient as the collection methods used as of the effective date of this
248 section, (6) ensure meaningful and continuous improvement of the
249 program, (7) develop and equitably assign to responsible parties a fee
250 sufficient to cover the costs of operating and administering the program
251 consistent with the requirements of this section, (8) provide technical
252 assistance to municipalities, regional associations, waste and recycling
253 collectors, transporters and processors, and any other entity that
254 participates in the packaging stewardship program, as needed to
255 achieve compliance with the performance goals described in this
256 section, (9) provide for investment in existing and future reuse
257 programs, recycling infrastructure and end-market development in the
258 state, as needed to achieve compliance with the performance goals
259 described in this section, (10) provide consistent and ongoing outreach,
260 education and communication to consumers throughout the state
261 regarding participation in the program, and (11) for covered materials,
262 ensure compliance with sections 22a-255h to 22a-255m, inclusive, of the
263 general statutes and ensure continuous and meaningful reduced
264 toxicity of covered materials.

265 (f) Any stewardship plan submitted pursuant to this section shall be
266 submitted on a form prescribed by the Commissioner of Energy and
267 Environmental Protection and shall: (1) Identify each responsible party
268 that authorized the stewardship organization to operate and administer
269 the program on the party's behalf and the brands and types of covered
270 materials of the responsible parties participating in the stewardship
271 organization, (2) provide the name, address and contact information of
272 each person responsible for ensuring the stewardship organization and
273 the responsible parties that have authorized the stewardship
274 organization to operate such program on their behalf in compliance
275 with the provisions of this section, (3) include the results from the study
276 conducted pursuant to subsection (c) of this section, (4) describe how
277 the program will fund the net costs associated with the collection,
278 transportation, processing and marketing of covered materials

279 including payments to public and private entities at a reasonable rate,
280 (5) propose state-wide performance goals, and a justification for each
281 goal, for each type of covered material sold in the state to be achieved
282 not later than five years after the implementation date of the program.
283 Such performance goals shall be technologically feasible and
284 economically practical and shall include (A) a minimum reduction rate
285 measured as the total reduction in volume of each type of covered
286 material, (B) a minimum reuse rate measured as the total amount of each
287 type of covered material exempted from the program through transition
288 to a reuse program, (C) a minimum recovery rate measured as the total
289 amount of each type of covered material divided by the tons of such
290 type of covered material recovered through collection, (D) a minimum
291 recycling rate measured as the total amount of each type of covered
292 material divided by the tons of such type of covered material managed
293 through recycling, (E) a minimum post-consumer recycled content rate
294 measured as the percentage of total tons of each type of covered material
295 manufactured using post-consumer recycled content over a year, and
296 (F) a minimum contamination rate for recycling collection measured as
297 the percentage of total covered materials collected divided by the
298 amount of covered materials disposed after collection, (6) describe the
299 general process for state-wide, year-round convenient and accessible
300 collection and transportation of covered materials, including collection
301 from residences, multifamily apartment buildings, public spaces and
302 transfer stations and other residential recycling collection locations.
303 Such collection shall be at least as convenient as the system utilized as
304 of the effective date of this section and shall be provided at no cost to
305 residences and multi-family apartment buildings from which covered
306 materials are collected. Accessible collection of covered materials shall
307 include arrangement for diverse physical and language needs of a
308 certain population, (7) describe how collected covered materials will be
309 processed, including the names of contracted facilities and end markets.
310 For any covered material that will be marketed for use through a
311 method other than mechanical recycling, the plan shall describe: (A)
312 How the proposed method will affect the ability of the material to be
313 recycled into feedstock for the manufacture of new products, (B) how

314 the proposed method will affect the types and amounts of plastic
315 recycled for food and pharmaceutical-grade applications, (C) any
316 applicable air, water and waste permitting compliance requirements,
317 and (D) an analysis of the environmental impacts for the proposed
318 method compared to the environmental impacts of mechanical
319 recycling, incineration and landfill disposal as solid waste, (8) describe
320 how the program will provide technical assistance to municipalities,
321 regional associations, waste and recycling collectors, transporters and
322 processors and other entities that participate in the stewardship
323 program, (9) describe how the program will abate covered materials
324 litter in the state. Such program shall not include payments for litter
325 cleanup, but may include, but not be limited to, grants to nonprofits for
326 litter collection programs in the state, sponsorships and serving as
327 advisors to such nonprofits, litter prevention and reduction programs,
328 and litter education programs, (10) describe how the program intends
329 to provide consistent and ongoing outreach, education and
330 communication to consumers throughout the state regarding
331 participation in the program. To the greatest extent feasible, the
332 program shall ensure that any educational materials developed for the
333 program have consistent branding and are consistent with RecycleCT
334 Foundation educational messaging and materials, and that educational
335 materials are developed to have applicability to all residents of the state,
336 including, but not limited to, residents with varying methods of
337 collection of covered materials, residents with multilingual needs,
338 residents who live in single-family housing or multifamily housing and
339 residents who are underserved by traditional methods of
340 communication, (11) describe how the program intends to provide for
341 investment in existing and future reuse programs, recycling
342 infrastructure, and end-market development in the state, (12) include a
343 description of a closure plan that shall ensure that in the event the
344 stewardship organization ceases to exist or the commissioner suspends
345 or revokes approval of an implemented plan, the funds held by the
346 stewardship organization will (A) remain within a separate fund until
347 the commissioner renews approval of a plan, or (B) be transferred to a
348 successor stewardship organization, (13) if more than one responsible

349 party or stewardship organization registers with the commissioner to
350 carry out the requirements of this section, each responsible party or
351 stewardship organization submitting a plan for approval shall describe
352 how it intends to collaborate with other responsible parties or product
353 stewardship organizations in the state, (14) describe how the
354 stewardship organization intends to address the program needs
355 assessed through the approved study conducted pursuant to subsection
356 (c) of this section, and (15) include any other information required by
357 the commissioner.

358 (g) Nothing in this section shall preclude additional responsible
359 parties or stewardship organizations authorized to operate and
360 administer a program on behalf of responsible parties from submitting
361 plans for approval to the commissioner in accordance with this section
362 after January 1, 2025, provided a responsible party shall authorize only
363 one stewardship organization per type of covered material.

364 (h) Any stewardship organization, authorized by a responsible party
365 to operate and administer a program on its behalf, shall establish a fee
366 structure that covers, but does not exceed, the costs of (1) developing the
367 plan described in subsection (f) of this section, (2) operating and
368 administering the program described in subsection (e) of this section,
369 and (3) maintaining a financial reserve sufficient to operate the program
370 over a multiyear period of time in a fiscally prudent and responsible
371 manner. Such stewardship organization may update the fee schedule no
372 more than annually as needed, or as directed by the commissioner if the
373 commissioner determines that the modulations are insufficient to
374 incentivize program or covered materials redesign. Such fee schedule
375 shall: (A) Reflect a responsible party's share of covered materials sold in
376 the state, (B) provide for a flat-fee option to be assessed on a tiered basis
377 such that any responsible party other than a responsible party that is
378 exempt and that generates less than fifteen tons of covered materials in
379 a calendar year, is required to pay not more than five hundred dollars
380 per ton of covered materials to the stewardship organization pursuant
381 to this subsection, regardless of the type of covered material, (C) for
382 responsible parties that are not exempt, reflect the cost to collect, process

383 and market the type of covered material sold in the state by a
384 responsible party. Such fee structure shall include, but not be limited to,
385 modulations to payments in a manner that incentivizes, through
386 increased or reduced fees, the following: (i) The use of covered materials
387 that have a longer life span, (ii) the use of recycled content in covered
388 materials, (iii) increased recyclability of covered materials, (iv) lower
389 toxicity in covered materials, (v) a reduction in the amount of covered
390 materials used, (vi) a reduction in the amount of a responsible party's
391 covered materials in litter, (vii) labeling of covered materials in such a
392 way that reduces consumer confusion, (viii) the use of covered materials
393 that are recycled in a country listed as a member of the Organization for
394 Economic Cooperation and Development, (ix) the use of covered
395 materials that do not disrupt recycling processes, and (x) the use of
396 covered materials that have lower associated greenhouse gas emissions.

397 (i) Nothing in this section shall prohibit a stewardship organization
398 from establishing and requiring by private agreement or contract the
399 payment of other fees associated with a covered material's supply chain
400 by third parties that are not responsible parties.

401 (j) Not later than one hundred eighty days after submission of a plan
402 pursuant to this section, the Commissioner of Energy and
403 Environmental Protection shall make a determination whether to
404 approve such plan. Prior to making such determination, the
405 commissioner shall post the plan on the Department of Energy and
406 Environmental Protection's Internet web site and accept public
407 comments on the plan. In the event that the commissioner disapproves
408 the plan because it does not meet the requirements of this section, the
409 commissioner shall describe the reasons for the disapproval in a notice
410 of determination that the commissioner shall provide to the responsible
411 party or stewardship organization, as applicable. The responsible party
412 or stewardship organization, as applicable, shall revise and resubmit the
413 plan to the commissioner not later than sixty days after receipt of notice
414 of the commissioner's disapproval notice. Not later than forty-five days
415 after receipt of the revised plan, the commissioner shall review and
416 approve or disapprove the revised plan and provide a notice of

417 determination to the responsible party or stewardship organization. The
418 responsible party or stewardship organization may resubmit a revised
419 plan to the commissioner for approval on not more than two occasions.
420 If the responsible party or stewardship organization fails to submit a
421 plan that is acceptable to the commissioner because it does not meet the
422 requirements of this section, the commissioner shall modify a submitted
423 plan to make it conform to the requirements of this section and approve
424 it. Not later than one hundred eighty days after the approval of a plan
425 pursuant to this section, the responsible party or stewardship
426 organization, as applicable, shall implement the approved plan for a
427 packaging stewardship program. In deciding whether to approve any
428 such plan, the commissioner may consider any of the following: (1) The
429 extent to which the advice and comments provided by the advisory
430 committee to the stewardship organization regarding the plan and the
431 process by which the stewardship organization intends to include
432 advice and comments regarding future program expansions and
433 improvements and the operation of the program were included in the
434 plan, (2) the achievability of performance goals in such plan subdivision
435 including: (A) The specificity of material types, and (B) the performance
436 goals set in other jurisdictions, (3) the timeliness and effectiveness of the
437 plan to achieve the requirements of this section, (4) whether the funding
438 mechanism described in the plan by the stewardship organization is
439 reasonable and adequate to fund the costs of such program in
440 accordance with the provisions of this section, and (5) the extent to
441 which the plan adequately promotes the sustainable materials
442 management priority set forth in subsection (b) of section 22a-228 of the
443 general statutes and moves covered materials higher up the sustainable
444 materials management prioritization.

445 (k) Each responsible party or stewardship organization, as
446 applicable, shall submit any proposed substantive changes to a program
447 to the Commissioner of Energy and Environmental Protection for
448 approval and present said substantive changes to the applicable
449 advisory committee for comment. For the purposes of this section,
450 "substantive change" means: (1) A change in the processing facilities to

451 be used for covered materials collected pursuant to the program, or (2)
452 a material change to the system for collecting, transporting or
453 processing covered materials.

454 (l) Not later than three years after the implementation date of a
455 program, each responsible party or stewardship organization, as
456 applicable, shall submit updated performance goals to the
457 Commissioner of Energy and Environmental Protection that are based
458 on the experience of the program during the first three years of the
459 program.

460 (m) Each responsible party or stewardship organization, as
461 applicable, shall notify the Commissioner of Energy and Environmental
462 Protection of other material changes to such program on an ongoing
463 basis, without resubmission of the plan to the commissioner for
464 approval. Such changes shall include, but not be limited to, any change
465 in the composition, officers or contact information of such responsible
466 party or stewardship organization, as applicable.

467 (n) On and after the implementation date of a stewardship program
468 pursuant to this section, a responsible party's covered materials may not
469 be sold in the state unless the covered materials are managed under an
470 approved stewardship plan and the responsible party has submitted all
471 required information and fees to any applicable stewardship
472 organization that is authorized to operate and administer a program on
473 such party's behalf. Any new covered materials sold at retail or sold or
474 distributed through remote sale after the implementation date of a
475 stewardship program pursuant to this section shall be reported to the
476 Commissioner of Energy and Environmental Protection by such
477 stewardship organization. No retailer or distributor shall be found to be
478 in violation of the provisions of this subsection if, on the date the
479 covered material was ordered from the responsible party or its agent,
480 the responsible party was listed on the Department of Energy and
481 Environmental Protection's Internet web site in accordance with the
482 provisions of this section.

483 (o) Not later than October fifteenth of each year, each responsible
484 party or stewardship organization authorized to operate and administer
485 a stewardship program pursuant to this section shall submit an annual
486 report to the Commissioner of Energy and Environmental Protection on
487 a form prescribed by the commissioner. The commissioner shall post
488 such annual report on the Department of Energy and Environmental
489 Protection's Internet web site. Such report shall include: (1) A list of
490 responsible parties and the brands and types of covered materials of the
491 responsible parties participating in any such stewardship organization,
492 (2) the tonnage, by type, of covered materials sold in the state by
493 responsible parties during the prior year, (3) progress made toward
494 achieving the performance goals and an evaluation of the effectiveness
495 of methods and processes used to achieve such performance goals of the
496 program, (4) a description of how such stewardship organization
497 intends to improve the program in line with performance goals, if such
498 evaluation demonstrates the program is not achieving the approved
499 performance goals, (5) the tonnage, by type, of covered materials
500 managed through: (A) Recycling, (B) disposal, and (C) any other
501 method, (6) a description of how the processes, methods and end-
502 markets used to manage each type of covered material promoted the
503 sustainable materials management priority in subsection (b) of section
504 22a-228 of the general statutes, including for covered material that was
505 not managed through recycling, (7) a description of the efforts taken by
506 or on behalf of responsible parties or the stewardship organization, as
507 applicable, to minimize environmental and human health impacts
508 throughout the program operation and covered material life cycle and
509 to increase reusability or recyclability at the end of the material's life
510 cycle, (8) identification of covered materials that could be designed to
511 be refillable or reusable, (9) a detailed description of any strategic
512 investment in reuse and recycling infrastructure and end-market
513 development in the state, (10) the fee schedule developed by the
514 responsible party or stewardship organization, as applicable, for the
515 prior year, and a description of how the fees incentivized collection,
516 processing or redesign of covered materials pursuant to the
517 modulations described in this section, (11) the estimated fee schedule

518 for the next year, including the expected fee rate changes based on shifts
519 in material value, (12) a description of covered material litter abatement
520 efforts taken by, on behalf of, or funded by, the responsible party or
521 stewardship organization, as applicable, (13) a description of the
522 outreach, education and communication efforts taken by, on behalf of,
523 or funded by, the responsible party or stewardship organization, as
524 applicable, (14) recommendations for changes to the program, and (15)
525 any other information requested by the commissioner.

526 (p) Two years after the implementation of a stewardship program
527 pursuant to this section and every two years thereafter, or upon the
528 request of the Commissioner of Energy and Environmental Protection
529 but not more frequently than once per year, each responsible party or
530 stewardship organization, as applicable, authorized to operate and
531 administer a stewardship program pursuant to this section shall cause
532 an audit of the program to be conducted by an independent auditor.
533 Such audit shall review the accuracy of the responsible party or
534 stewardship organization's data concerning the program and provide
535 any other information requested by the Commissioner of Energy and
536 Environmental Protection, consistent with the requirements of this
537 section. Such audit shall be paid for by the responsible party or
538 stewardship organization, as applicable. The responsible party or
539 stewardship organization, as applicable, shall maintain all records
540 relating to the program for not less than three years.

541 (q) The Commissioner of Energy and Environmental Protection may
542 require a plan to be reviewed or revised at any time if the commissioner
543 (1) has reason to believe the performance goals set pursuant to this
544 section are not being met or followed by a responsible party or
545 stewardship organization, as applicable, (2) has reason to believe the
546 performance goals set pursuant to this section are insufficient to drive
547 increased improvement in the stewardship program, or (3) determines
548 a change in circumstances warrants revision of the plan. The
549 commissioner may rescind approval of a stewardship plan at any time.

550 (r) A responsible party is exempt from the requirements of this

551 section if the responsible party: (1) Would otherwise be considered a
552 responsible party but is responsible for less than one ton of covered
553 materials per year in the state, (2) has a gross annual revenue of less than
554 two million dollars, or (3) is a municipality.

555 (s) If a responsible party can demonstrate to the satisfaction of the
556 applicable stewardship organization that a type of covered material sold
557 in the state by such responsible party achieved an eighty-five per cent
558 or greater recycling rate in the state during the prior calendar year, the
559 stewardship organization may reduce the fees owed by the responsible
560 party under this section to an amount that represents no more than the
561 costs associated with the collection and transportation for recycling in
562 the state of that type of covered material. Any reduced fees owed by a
563 responsible party pursuant to this subsection shall remain subject to the
564 adjustments described in this section.

565 (t) The Commissioner of Energy and Environmental Protection shall
566 exempt a covered material from the fee payment established in this
567 section if a responsible party can demonstrate to the commissioner that
568 said covered material is managed through a viable reuse program. In
569 order to obtain such exemption, the responsible party shall provide the
570 commissioner, on a form prescribed by the commissioner, with
571 information that demonstrates (1) such necessity, and (2) how the
572 responsible party intends to recover and recycle reusable covered
573 material at end of the material's life. The responsible party shall report
574 to the commissioner any substantive changes to such reuse program.
575 The commissioner may rescind an exemption issued pursuant to this
576 subsection if the approved reuse program no longer conforms to the
577 information submitted by the responsible party pursuant to this
578 subsection.

579 (u) The Commissioner of Energy and Environmental Protection shall
580 not require the disclosure of any information that the commissioner
581 finds to be confidential information. For purposes of this subsection,
582 "confidential information" means any information that if made public
583 would divulge competitive business information, methods or processes

584 entitled to protection as trade secrets of such responsible party or
585 stewardship organization, or information that would reasonably hinder
586 the responsible party or stewardship organization's competitive
587 advantage in the marketplace.

588 (v) Not later than three years after the approval of any stewardship
589 plan pursuant to this section, the Commissioner of Energy and
590 Environmental Protection shall submit a report, in accordance with the
591 provisions of section 11-4a of the general statutes, to the joint standing
592 committee of the General Assembly having cognizance of matters
593 relating to the environment that describes the results of the applicable
594 packaging stewardship program and that recommends modifications to
595 improve the functioning and efficiency of any such program, as
596 necessary.

597 (w) Not later than the implementation date of any stewardship
598 program authorized pursuant to this section, the Department of Energy
599 and Environmental Protection shall list the names of participating
600 responsible parties and the brands covered by such stewardship
601 program on the department's Internet web site.

602 (x) The Department of Energy and Environmental Protection shall
603 maintain online public records of registered stewardship organizations,
604 stewardship plans and plan amendments approved pursuant to this
605 section, annual reports submitted by the responsible party or
606 stewardship organization, as applicable, to the department, annual
607 reports by the department to the General Assembly and any other
608 information the department determines relevant to the provisions of
609 this section.

610 (y) Each responsible party or stewardship organization authorized to
611 operate and administer a stewardship program approved pursuant to
612 this section shall maintain a public Internet web site that shall, at a
613 minimum, provide the following information: (1) Each responsible
614 party that has authorized a stewardship organization to operate and
615 administer the stewardship program on its behalf and the brands and

616 types of covered materials of the responsible parties participating in
617 such packaging stewardship organization, and (2) all applicable plans
618 approved pursuant to this section, annual reports and audit results.

619 (z) Each responsible party, retailer or stewardship organization,
620 including a responsible party's, retailer's or stewardship organization's
621 officers, members, employees and agents that organize a packaging
622 stewardship program pursuant to this section shall be immune from
623 liability for the responsible party's, retailer's or stewardship
624 organization's conduct under state laws relating to antitrust, restraint of
625 trade, unfair trade practices and any other regulation of trade or
626 commerce only to the extent necessary to plan and implement the
627 responsible party's, retailer's or stewardship organization's stewardship
628 program in accordance with the provisions of this section.

629 (aa) Not later than July 1, 2023, the Commissioner of Energy and
630 Environmental Protection shall establish reasonable fees for
631 administering the program described in this section. All fees charged
632 shall be based on factors relative to the costs of administering such
633 program and shall fully cover but not exceed expenses incurred by the
634 commissioner for the implementation of such program, including
635 administrative fees associated with sections 22a-255h to 22a-255m,
636 inclusive, of the general statutes.

637 (bb) For covered materials collected, transported, processed or
638 marketed by a municipality directly or through a municipal contract
639 with a private service provider or where a municipality directly or
640 through a municipal contract with a service provider provides for
641 collection, transportation, processing or marketing of covered materials
642 from public spaces or operates a transfer station, the municipality may
643 elect to: (1) Continue provision of service without reimbursement, (2)
644 continue provision of service for a reimbursement at a reasonable rate
645 from a responsible party or stewardship organization authorized to
646 operate and administer a program pursuant to this section, or (3) if a
647 municipality does not elect to provide service, a responsible party or
648 stewardship organization authorized to operate and administer a

649 stewardship program pursuant to this section shall be responsible for
650 contracting with a private service provider for services and shall be
651 responsible for calculating and dispersing funding at a reasonable rate
652 for collection, transportation, processing and marketing by said private
653 service provider.

654 (cc) In the event that another state implements a stewardship
655 program for covered materials, or similar materials, a stewardship
656 organization authorized pursuant to this section may collaborate across
657 states to conserve efforts and resources used in carrying out a packaging
658 stewardship program, provided such collaboration is consistent with
659 the requirements of this section.

660 (dd) Packaging stewardship program costs shall not include covered
661 materials collected and managed through a municipal solid waste
662 disposal program but shall include materials collected and disposed
663 from a facility processing covered materials for recycling. Any
664 stewardship organization may establish standards for collection,
665 processing and marketing of covered materials, whether pursuant to a
666 contract or agreement with a municipality or service provider.

667 (ee) Any person who violates any provision of this section shall be
668 assessed a civil penalty not to exceed twenty-five thousand dollars, to
669 be fixed by the Superior Court, for each offense. Each violation shall be
670 a separate and distinct offense and, in the case of a continuing violation,
671 each day's continuance of such violation shall be deemed to be a
672 separate and distinct offense. The Attorney General, upon request of the
673 Commissioner of Energy and Environmental Protection, shall institute
674 a civil action in the superior court for the judicial district of Hartford to
675 recover such penalty.

676 (ff) Whenever, in the judgment of the Commissioner of Energy and
677 Environmental Protection, any person has engaged in or is about to
678 engage in any act, practice or omission that constitutes, or will
679 constitute, a violation of any provision of this section, the Attorney
680 General may, at the request of the commissioner, bring an action in the

681 superior court for the judicial district of Hartford to enjoin such act,
682 practice or omission and to seek an order of appropriate remedial
683 measures. Upon a showing by the commissioner that such person has
684 engaged in or is about to engage in such act, practice or omission, the
685 court may issue an order mandating compliance with the provisions of
686 this section, a permanent or temporary injunction, a restraining order or
687 other order, as appropriate.

688 (gg) If two or more persons are responsible for a violation of the
689 provisions of this section, such persons shall be jointly and severally
690 liable under this section.

691 (hh) Any action brought by the Attorney General pursuant to this
692 section shall have precedence in the order of trial as provided in section
693 52-191 of the general statutes.

694 (ii) Upon the effective date of a covered material's stewardship
695 program, the state intends to occupy the field of regulation for such
696 covered material's stewardship program consistent with the provisions
697 of this section. A local government may not adopt an ordinance
698 establishing, requiring the establishment of or otherwise regulating
699 stewardship programs for covered materials and, from the effective date
700 of such program, any ordinance or regulation that violates the
701 provisions of this subsection shall be void and has no force or effect.

702 (jj) Nothing in this section shall be construed to impact an entity's
703 eligibility for any state or local incentive or assistance program to which
704 such entity is otherwise eligible.

705 (kk)The Department of Energy and Environmental Protection may
706 opt into a regional or national collaborative, in lieu of the requirements
707 in this section, if the regional or national program addresses the same or
708 similar covered materials and purpose of this section.

709 (ll) At such time as an enforceable federal covered materials
710 stewardship program is implemented, not later than one hundred
711 eighty days after the effective date of such federal program, the

712 Department of Energy and Environmental Protection shall determine
713 the applicability of such federal program with the requirements of this
714 section and may adopt participation in such federal program, in lieu of
715 the requirements of this section if the federal program addresses the
716 same or similar covered materials and purpose of this section.

717 (mm) No registered stewardship organization shall create any
718 unreasonable barrier for participation by responsible parties in such
719 stewardship organization.

720 (nn) Nothing in this act shall be construed to prohibit a person who
721 is not a responsible party from voluntarily participating in a
722 stewardship organization provided such person complies with all
723 requirements of this section.

724 (oo) The Department of Energy and Environmental Protection may
725 suspend or revoke a responsible party or stewardship organization's
726 approved plan if the department determines that (1) a violation or
727 repeated violations of this section occurred, or (2) such a violation had
728 a material impact on the implementation and administration of the
729 responsible party's or stewardship organization's plan.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2022</i>	New section

Statement of Purpose:

To establish a stewardship program for the collection and recycling of consumer packaging.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]