



SUMMARY OF AMENDMENT CHANGES TO PRODUCER RESPONSIBILITY POLICY HB22-1355

AMENDMENT L.113, SENATE SECOND READING

- This amendment accomplishes three primary goals:
- **Increases the transparency** of the program by requiring public notice for all board meetings and requiring the PRO to keep all books and records permanently, and ensuring CDPHE can request those records. In addition, CDPHE is required to solicit public comment on the PRO plan before approving or rejecting it.
- **Ensures good governance** by the PRO by putting a 5% cap on administrative costs and requiring the PRO to solicit input on any annual adjustments to the member dues from all members. The PRO must also comply with state procurement practices when hiring a consultant to do the needs assessment.
- **Provides the legislature with an opportunity to review the program** before implementation. The PRO will conduct a needs assessment that proposes at least three projected scenarios for how to increase recycling and the costs associated with each option. The executive director of CDPHE will solicit feedback from the Advisory Board and the public on these three cost scenarios, and then recommend a preferred approach to the Joint Budget Committee. If the JBC accepts the recommendation, the PRO moves forward to create and implement a plan. If the JBC rejects the Director's recommendation, then the legislature can adopt a bill to implement one of the other cost scenarios. If the JBC rejects the recommendation, the PRO cannot implement a plan without the legislature passing a bill to direct them to take action.

ADOPTED IN SENATE FINANCE COMMITTEE, 5.4.22

AMENDMENT L.033

- Amends technical change regarding in-kind exemption for magazines and periodicals
- Revises conflicting language on PRO tracking compliance to conform with Amendment L.031
- Requires CDPHE to review the impacts of this program on consumer prices at least every three years and report to any impacts to the legislature
- Requires PRO to notify affected producers of their obligations to help educate companies about the program
- Requires "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act" hearing



- Allows CDPHE to request the PRO make changes to the annual plan to address specific concerns.
- Adds language that clarifies the bill does not require any private service provider to participate in the program.
- Clarified definition of producer so that the responsible party for products made outside the US is the first importer into the United States.

ADOPTED ON SECOND READING

AMENDMENT L.006

- Strike language "offered for sale" so bill only affects products sold or distributed in Colorado; this addresses any potential double counting of products from Colorado companies that are then sold in other states
 - This language addresses interstate commerce concerns
- Provides clarification that the Producer Responsibility Organization is not a state-owned or state-sponsored entity or an enterprise, and any employees of the PRO are not considered state employees;
 - This clarification addresses concerns raised in relation to TABOR

AMENDMENT L.007

- Clarifies language to ensure an individual producer can submit an individual plan during any year of the program in lieu of joining the PRO
- Includes technical changes in the bill drafting standards

AMENDMENT L.009

- Add language to reference severability clause in Colorado statute
- Extends review period for advisory board to provide recommendations on program plan and annual reporting
- Requires PRO to maintain relevant documents and records for CDPHE to monitor program performance and compliance, and for PRO to submit documents to CDPHE upon request
- Adds hospitality locations, such as entertainment and sports venues, to list of nonresidential entities to consider providing recycling service under program
- Provides exemption for paper financial statements and other vital documents required to be provided in paper form under consumer protection or other regulations

AMENDMENT L.010

- Revises exemption for local newspapers to publications based on news content to comply with interstate commerce and recognize social value of news publications
- Revises exemption for agricultural based on product sales to be consistent with approaches to protect small businesses



- Exempts packaging used for infant formula, medical food, or fortified nutritional supplements

AMENDMENT L.027

- Requires the CDPHE Director to develop an eco-modulation bonus schedule that reduces the payments to the program for producers who meet performance benchmarks established by the Director;
- Requires the Director to consult with PRO and advisory board in creating the bonus schedule; and
- Requires the PRO to implement the bonus schedule

AMENDMENT L.031

- Clarifies the membership of the advisory board shall represent regions outside of the Front Range
- Specifies no corporate entity can hold more than one seat on the governing board of the Producer Responsibility Organization (PRO)
- Restricts the PRO from making the determination of whether an individual producer is in compliance with this policy; this clarifies that the state agency is the only body with authority to determine and enforce compliance with program
- Specifies any local government agency that is reimbursed by the PRO for providing recycling services must spend those reimbursement funds on the local government's recycling programs

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ENERGY AND ENVIRONMENT COMMITTEE, ADOPTED 4.13.22

AMENDMENT L.001

- Clarified language on retail food establishments to exempt only the physical individual location; dues will be the responsibility of the producer, either the brand owner, franchisor, or distributor, not the individual food establishment
- Added option for individual producer to submit an individual program plan in lieu of joining the PRO
- Simplified language around the additional plan and additional PRO to clarify that any plan or organization must comply with the elements laid out in statute
- Added language to develop a coordination plan between PROs after 2029
- Provided CDPHE more time to review program plan, going from 60 days to 120 days
- Required PRO to consult with Advisory Board before submitting amendments during the annual plan reporting and to address any feedback provided by the Advisory Board
- Added a requirement for a flat-rate dues structure for small producers to minimize administrative and reporting burden



- Removed language to require producer dues by based on weight to give more discretion to PRO to calculate dues based on weight, unit sales, or other metrics; also clarified dues are based on net recycling system costs
- Expanded small business exemption to \$5 million not including on-premise alcohol sales to reduce burden on craft breweries
- Expanded in-kind payment option to magazine and periodical publishers
- Removed local newspapers from the program because of their social and cultural value
- Clarified goal to increase the recycling of collected materials to reduce the amount of residue at recycling facilities and increase program performance
- Added metrics in the needs assessment to evaluate the performance of the existing recycling system to ensure the new program improves services and material quality
- Clarified the definition of who is the producer of paper products not including magazines and newspapers
- Added language to study diverse collection systems for recycling

L.002

- Allowed producers to use national sales data as necessary
- Allows the Commission to exempt covered materials as necessary pending an analysis by the Organization and review by Advisory Board
- Clarifies dues for producers vary by whether or not the material is recyclable

L.003

- Requires PRO board to have producers of various sizes and types
- Added language to clarify the section on ecomodulation that adjusts fees up/down based on design attributes
- Added language on minimum recycled content rates for various products, clarifying these will be set by the PRO and may include waivers for specific types of products as needed back on food safety requirements and other factors
- Cut definition of industrial recycling as it was originally meant to limit the program scope but no longer needed because industrial users are not included under covered entities

L.004

- Clarified funding for composting to reduce contamination and support processing of compostable packaging
- Added definition of compostable
- Included capacity of composting facilities to process compostable packaging in needs assessment to inform funding
- Removed packaging around Colorado agricultural products from covered materials
- Extends date for producers to pay dues until no later than January 2026
- Requires the advisory board seat for a producer to rotate by material type to represent different categories of products



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APPROPRIATIONS COMMITTEE, ADOPTED APRIL 26, 2022

AMENDMENT L.005

- Requires the Producer Responsibility Organization to reimburse the state agency for oversight and enforcement costs, and how the state agency will report expenses to the PRO

AMENDMENT L.008

- Establishes a state fund to manage the reimbursement monies from the PRO and to ensure the funds are used solely by CDPHE on program costs
 - This language clarifies the funding is to be used only for program expenses and is not considered a tax used for general fund purposes