

1 TO THE HONORABLE SENATE:

2 The Committee on Natural Resources and Energy to which was referred
3 Senate Bill No. 227 entitled “An act relating to the provision of personal care
4 products by lodging establishments” respectfully reports that it has considered
5 the same and recommends that the bill be amended by striking out all after the
6 enacting clause and inserting in lieu thereof the following:

7 * * * Single-use Products * * *

8 Sec. 1. 10 V.S.A. chapter 159, subchapter 5 is amended to read:

9 Subchapter 5. ~~Single-Use Carryout Bags; Expanded Polystyrene Food Service~~
10 ~~Products; Single-use Plastic Straws; and Single-use Plastic Stirrers~~ Products

11 § 6691. DEFINITIONS

12 As used in this subchapter:

13 (1) “Agency” means the Agency of Natural Resources.

14 * * *

15 (6) “Plastic” means a synthetic material made from linking monomers
16 through a chemical reaction to create a polymer chain that can be molded or
17 extruded at high heat into various solid forms that retain their defined shapes
18 during their life cycle and after disposal, including material derived from either
19 petroleum or a biologically based polymer, such as corn or other plant sources.
20 “Plastic” includes all materials identified with resin identification codes 1 to 7.

1 (7) “Point of sale” means a check-out stand, cash register, or other point
2 of departure from a store or food service establishment, including the location
3 where remotely ordered food or products are delivered to a purchaser.

4 * * *

5 (10) “Secretary” means the Secretary of Natural Resources.

6 * * *

7 (14) “Single-use product” or “single use” means a product that is
8 generally recognized by the public as an item to be discarded after one use.

9 * * *

10 (16) “Lodging establishment” has the same meaning as in 18 V.S.A.
11 § 4301.

12 (17) “Personal care product” means a product intended to be applied to
13 or used on the human body in the shower or bath or on any part of the human
14 body, including shampoo, hair conditioner, moisturizer, toothpaste, and bath
15 soap.

16 (18) “Small container” means a container made of glass, plastic, or
17 other material with less than six-ounce capacity that is intended to be
18 nonreusable by the end user.

19 * * *

1 § 6701. PERSONAL CARE PRODUCTS; SMALL CONTAINER;

2 LODGING ESTABLISHMENTS

3 (a) The purpose of this section is to encourage lodging establishments to
4 use bulk dispensers of personal care products to reduce waste and lower
5 operating costs while still providing products for the health and safety of
6 guests.

7 (b) A lodging establishment shall not provide a personal care product in a
8 small container in a sleeping room accommodation, in a space within the
9 sleeping room accommodation, or within a bathroom used by the public or
10 guests beginning on:

11 (1) January 1, 2023, for a lodging establishment with more than
12 50 rooms; and

13 (2) January 1, 2024, for a lodging establishment with 50 rooms or fewer.

14 (c) A lodging establishment may provide a personal care product in a small
15 container to a person at no cost, upon request, at a place other than a sleeping
16 room accommodation, a space within the sleeping room accommodation, or
17 within a bathroom used by the public or guests.

18 (d) A lodging establishment that violates the requirements of this section
19 shall be subject to a civil penalty of not more than \$300.00. Upon a second or
20 subsequent violation, the lodging establishment shall be subject to a civil
21 penalty of not more than \$500.00. A violation of this section shall be
22 enforceable in the Judicial Bureau pursuant to the provisions of 4 V.S.A.

1 chapter 29 in an action that may be brought by the Department of Health or the
2 Agency of Natural Resources.

3 (e) Beginning on July 1, 2023, the requirements of this section preempt and
4 supersede municipal bylaws regulating personal care products. A violation of
5 this subsection is enforceable in the same manner as preemption under section
6 6699 of this title.

7 Sec. 2. 4 V.S.A. § 1102 is amended to read:

8 § 1102. JUDICIAL BUREAU; JURISDICTION

9 (a) The Judicial Bureau is created within the Judicial Branch under the
10 supervision of the Supreme Court.

11 (b) The Judicial Bureau shall have jurisdiction of the following matters:

12 * * *

13 (6) Violations of 24 V.S.A. § 2201, relating to littering, burning of solid
14 waste, and illegal dumping.

15 * * *

16 (30) Violations of 10 V.S.A. § 6701, relating to the provision by lodging
17 establishments of personal use products in small plastic bottles.

18 (c) The Judicial Bureau shall not have jurisdiction over municipal parking
19 violations.

20 (d) Three hearing officers appointed by the Court Administrator shall
21 determine waiver penalties to be imposed for violations within the Judicial
22 Bureau's jurisdiction, except municipalities shall adopt full and waiver

1 penalties for civil ordinance violations pursuant to 24 V.S.A. § 1979. For
2 purposes of municipal violations, the issuing law enforcement officer shall
3 indicate the appropriate full and waiver penalty on the complaint.

4 * * * Extended Producer Responsibility Report * * *

5 Sec. 3. REPORT ON EXTENDED PRODUCER RESPONSIBILITY FOR
6 PACKAGING AND PRINTED MATERIALS

7 (a) The Office of Legislative Council, after consultation with the Chair of
8 the Senate Committee on Natural Resources and Energy, the Chair of the
9 House Committee on Natural Resources and Energy, the Solid Waste Division
10 of the Department of Environmental Conservation, solid waste management
11 entities, representatives of businesses, and other interested parties, shall draft
12 legislation that would establish requirements under statute for an extended
13 producer responsibility program in the State for packaging and printed
14 material. The draft legislation shall consider inclusion of the following:

15 (1) A definition of packaging to include, at a minimum, material used to
16 market, contain, wrap, protect, and deliver consumer goods, including food and
17 beverages, personal care products, general consumer goods, and food service
18 ware.

19 (2) A definition of printed material to include at a minimum newsprint
20 and inserts, magazines and catalogues, direct mail, office paper, and telephone
21 directories.

1 (3) A definition of a producer of a product that clearly identifies the
2 manufacturer ultimately financially responsible for collection and recycling or
3 disposal of packaging and printed material.

4 (4) Exemptions for small producers and for product packaging that is
5 already covered under the Vermont beverage container redemption law and
6 Vermont’s other extended producer responsibility statutes.

7 (5) A definition of covered entities that includes at a minimum all
8 generators of printed material and packaging in the State.

9 (6) Provisions for the establishment of a nonprofit stewardship
10 organization or organizations of producers of packaging and printed material
11 and how to set, collect, and track fees for producers based on what they sell
12 into the State and how the fees will be used to support the State’s recycling
13 programs including payment of:

14 (A) 100 percent of the cost of collection, transport, and recycling of
15 packaging and printed material that is readily recyclable and sold into the
16 State;

17 (B) the costs of waste reduction and recycling education; and

18 (C) the cost of recycling infrastructure.

19 (7) A requirement that fees established by a stewardship organization
20 encourage packaging design that reduces its environmental impact by assessing
21 higher fees for packaging and printed material sold into the State that are more
22 harmful to the environment and lower fees for those that cause less

1 environmental harm. The environmental considerations that the Secretary may
2 address include recyclability of a product, recycled content in a product,
3 greenhouse gas emissions from production of a product, and the toxicity of a
4 product.

5 (8) Provisions of a stewardship plan to be submitted by a stewardship
6 organization describing how producers will provide for the collection,
7 transportation, and recycling of packaging and printed material using existing
8 infrastructure.

9 (9) Requirements for a stewardship organization to submit data obtained
10 from producers to the State including data regarding the amount of packaging
11 and printed material sold into the State, recovery rates of recyclables, fees
12 collected, and the entire cost of the program so that:

13 (A) there is transparency and accountability in assessing the success
14 of the program;

15 (B) there is consistency with internationally accepted standards; and

16 (C) there is sufficient information to evaluate the effectiveness of the
17 program.

18 (10) Performance goals to be set at or above existing recycling recovery
19 rates, with penalties if the goals are not met.

20 (11) Convenience provisions that at a minimum meet the convenience
21 requirements of 2012 Acts and Resolves No. 148.

1 (12) A recommended goal for the percentage reduction in the amount of
2 waste generated State-wide from single-use products. The recommendation
3 shall be based on review of similar percentage reduction goals in other states,
4 such as the California goal of reducing the amount of waste generated from
5 single-use products by 75 percent by 2030.

6 (13) A recommended goal for the percentage of post-consumer recycled
7 content in packaging, including recommendations for the reduction of plastic
8 packaging. The recommendation shall be based on similar percentage goals
9 for post-consumer content in other states, such as the Washington state goal of
10 reducing plastic packaging 20 percent by 2025.

11 (14) Roles and responsibilities of the Agency of Natural Resources.

12 (15) A method by which producers can protect themselves against
13 producers that fail to register with a program. These methods may include a
14 private right of action, requirements that online retailers of packaging be
15 responsible for paying into a fund in support of the program if the products
16 they sell are from producers who are not part of the stewardship program, or
17 other methods to ensure fairness and full compliance.

18 (16) A recommended method for coordinating among other northeastern
19 states an extended producer responsibility program or other provisions for the
20 management and disposition of packaging and printed material.

1 (b) The draft legislation required under subsection (a) of this section shall
2 not include proposed changes to the beverage container redemption law under
3 10 V.S.A. chapter 53.

4 (c) On or before January 15, 2021, the Office of Legislative Council shall
5 submit the draft legislation required by this section to the Senate Committee on
6 Natural Resources and Energy and the House Committee on Natural
7 Resources, Fish, and Wildlife.

8 * * * Beverage Container Redemption * * *

9 Sec. 4. 10 V.S.A. § 1522 is amended to read:

10 § 1522. BEVERAGE CONTAINERS; DEPOSIT

11 (a) Except with respect to beverage containers that contain liquor, a deposit
12 of not less than five cents shall be paid by the consumer on each beverage
13 container sold at the retail level and refunded to the consumer upon return of
14 the empty beverage container. With respect to beverage containers of volume
15 greater than 50 ml. that contain liquor, a deposit of 15 cents shall be paid by
16 the consumer on each beverage container sold at the retail level and refunded
17 to the consumer upon return of the empty beverage container. The difference
18 between liquor bottle deposits collected and refunds made is hereby retained
19 by the Liquor Control Enterprise Fund for administration of this subsection.

20 (b) A retailer or a person operating a redemption center who redeems
21 beverage containers shall be reimbursed by the manufacturer or distributor of
22 ~~such~~ the beverage containers in an amount that is three and one-half cents per

1 container for containers of beverage brands that are part of a commingling
2 program and ~~four~~ five cents per container for containers of beverage brands
3 that are not part of a commingling program.

4 * * *

5 Sec. 5. Subsection 10-109(b) of the Agency of Natural Resources’

6 Environmental Protection Regulations for the Deposit for Beverage

7 Containers is amended to read:

8 (b) Any commingling agreement shall contain, at a minimum, the
9 following criteria:

10 (1) The agreement shall include pick up of commingled beverage
11 containers from:

12 (A) at least 30 percent of the beverage containers redeemed in the
13 ~~state~~ State of Vermont; or

14 (B) as otherwise approved by the Secretary.

15 * * * Product Stewardship Primary Batteries * * *

16 Sec. 6. 10 V.S.A. § 7581(10) is amended to read:

17 (10) “Primary battery” means a nonrechargeable battery weighing two
18 kilograms or less, including alkaline, carbon-zinc, and lithium metal batteries.

19 “Primary battery” shall not mean:

20 (A) ~~a battery intended for industrial, business-to-business, warranty~~
21 ~~or maintenance services, or nonpersonal use;~~

- 1 ~~(B)~~ a battery that is sold in a computer, computer monitor, computer
- 2 peripheral, printer, television, or device containing a cathode ray tube;
- 3 ~~(C)~~(B) a battery that is not easily removable or is not intended to be
- 4 removed from a consumer product; and
- 5 ~~(D)~~(C) a battery that is ~~sold or~~ used in a medical device, as that term
- 6 is defined in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 321(h), as
- 7 may be amended, provided that the medical device is not designed and
- 8 marketed for sale or resale principally to consumers for personal use.

9 Sec. 7. 10 V.S.A. § 7584 is amended to read:

10 § 7584. PRIMARY BATTERY STEWARDSHIP PLAN

- 11 (a) Primary battery stewardship plan required. On or before June 1, 2015,
- 12 each producer selling, offering for sale, distributing, or offering for
- 13 promotional purposes a primary battery in the State shall individually or as part
- 14 of a primary battery stewardship organization submit a primary battery
- 15 stewardship plan to the Secretary for review.
- 16 (b) Primary battery stewardship plan; minimum requirements. Each
- 17 primary battery stewardship plan shall include, at a minimum, all of the
- 18 following elements:

19 * * *

- 20 (6) Education and outreach.

21 (A) A primary battery stewardship plan shall include an education

22 and outreach program. The education and outreach program may include mass

1 media advertising in radio or television broadcasts or newspaper publications
2 of general circulation in the State, retail displays, articles in trade and other
3 journals and publications, and other public educational efforts. The education
4 and outreach program shall describe the outreach procedures that will be used
5 to provide notice of the program to businesses, municipalities, certified solid
6 waste management facilities, retailers, wholesalers, and haulers. At a
7 minimum, the education and outreach program shall notify the public of the
8 following:

9 ~~(A)(i)~~ that there is a free collection program for all primary batteries;

10 and

11 ~~(B)(ii)~~ the location of collection points and how to access the

12 collection program.

13 (B) In the event that a producer or primary battery stewardship
14 organization does not meet the annual collection rate performance goal
15 established under subdivision (8) of this subsection, the Secretary may require
16 the producer or battery stewardship organization to conduct more outreach,
17 provide additional educational materials, or improve collection accessibility.

18 * * *

19 (8) Performance goal; collection rate. A primary battery stewardship
20 plan shall include a collection rate performance goal for the primary batteries
21 subject to the plan. The collection rate includes the estimated total weight of

1 primary batteries that will be sold or offered for sale in the State by the
2 producer or the producers participating in the primary battery stewardship plan.

3 * * *

4 Sec. 8. 10 V.S.A. § 6621a(a) is amended to read:

5 (a) In accordance with the following schedule, no person shall knowingly
6 dispose of the following materials in solid waste or in landfills:

7 (1) ~~Lead-acid batteries~~ Batteries, after July 1, ~~1990~~ 2020.

8 * * *

9 * * * Effective Date * * *

10 Sec. 9. EFFECTIVE DATE

11 This act shall take effect on July 1, 2020.

12 (Committee vote: _____)

13 _____

14 Senator _____

15 FOR THE COMMITTEE