| 1  | TO THE HONORABLE SENATE:  |
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| 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. |

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| 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 | <u>§ 4301.</u>  |
| 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 | <u>soap.</u>  |
| 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         |  |
| <i>L</i> 1 | penalty of not more than \$500.00. A violation of this section shall be          |

| chapter 29 in an action that may be brought by the Department of Health or the   |
|--|
| Agency of Natural Resources.   |
| (e) Beginning on July 1, 2023, the requirements of this section preempt and  |
| supersede municipal bylaws regulating personal care products. A violation of   |
| this subsection is enforceable in the same manner as preemption under section  |
| 6699 of this title.  |
| Sec. 2. 4 V.S.A. § 1102 is amended to read:  |
| § 1102. JUDICIAL BUREAU; JURISDICTION  |
| (a) The Judicial Bureau is created within the Judicial Branch under the  |
| supervision of the Supreme Court.  |
| (b) The Judicial Bureau shall have jurisdiction of the following matters:  |
| (,   |
| * * *  |
|  |
| * * *  |
| <ul><li>(6) Violations of 24 V.S.A. § 2201, relating to littering, burning of solid</li></ul>  |
| <ul> <li>* * *</li> <li>(6) Violations of 24 V.S.A. § 2201, relating to littering, burning of solid waste, and illegal dumping.</li> </ul>   |
| <ul> <li>***</li> <li>(6) Violations of 24 V.S.A. § 2201, relating to littering, burning of solid waste, and illegal dumping.</li> <li>***</li> </ul>  |
| <ul> <li>***</li> <li>(6) Violations of 24 V.S.A. § 2201, relating to littering, burning of solid waste, and illegal dumping.</li> <li>***</li> <li>(30) Violations of 10 V.S.A. § 6701, relating to the provision by lodging</li> </ul>   |
| <ul> <li>***</li> <li>(6) Violations of 24 V.S.A. § 2201, relating to littering, burning of solid waste, and illegal dumping.</li> <li>***</li> <li>(30) Violations of 10 V.S.A. § 6701, relating to the provision by lodging establishments of personal use products in small plastic bottles.</li> </ul>   |
| <ul> <li>***</li> <li>(6) Violations of 24 V.S.A. § 2201, relating to littering, burning of solid waste, and illegal dumping.</li> <li>***</li> <li>(30) Violations of 10 V.S.A. § 6701, relating to the provision by lodging establishments of personal use products in small plastic bottles.</li> <li>(c) The Judicial Bureau shall not have jurisdiction over municipal parking</li> </ul>             |
| <ul> <li>***</li> <li>(6) Violations of 24 V.S.A. § 2201, relating to littering, burning of solid waste, and illegal dumping.</li> <li>***</li> <li>(30) Violations of 10 V.S.A. § 6701, relating to the provision by lodging establishments of personal use products in small plastic bottles.</li> <li>(c) The Judicial Bureau shall not have jurisdiction over municipal parking violations.</li> </ul> |
|  |

| 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 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  | <u>10 V.S.A. chapter 53.</u>   |
| 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  | $(\mathbf{B})$ 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   |

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| 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 <u>Batteries</u> , after July 1, <del>1990</del> 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  |