

Senate proposal of amendment

H. 446

An act relating to miscellaneous natural resources and development subjects

The Senate proposes to the House to amend the bill as follows:

First: By striking out Sec. 4, Environmental Contingency Fund, and its reader assistance heading in their entirety and inserting in lieu thereof a new Sec. 4 and reader assistance to read as follows.

* * * Waste Management Assistance * * *

Sec. 4. [Deleted.]

Second: By striking out Sec. 24, effective date, and its reader assistance heading in their entirety and inserting in lieu thereof six new sections to be Secs. 24–29 and their reader assistance headings to read as follows:

* * * Food Residuals Management * * *

Sec. 24. MORATORIUM ON ISSUANCE OF SOLID WASTE FACILITY CERTIFICATIONS FOR FOOD DEPACKAGING FACILITIES

Beginning on May 1, 2022, the Secretary of Natural Resources shall not, under 10 V.S.A. chapter 159, issue a new solid waste facility certification for a food depackaging facility or amend an existing solid waste facility certification that results in an increase of capacity at a currently certified food depackaging facility until the rules required under Sec. 27 of this act are adopted and in effect.

Sec. 25. STAKEHOLDER GROUP ON THE ROLE OF DEPACKAGERS IN MANAGING FOOD WASTE

(a) On or before July 1, 2022, the Secretary of Natural Resources shall convene a collaborative stakeholder process to make recommendations on the proper management of packaged organic materials, including:

(1) recommendations on whether the organics management hierarchy in 10 V.S.A. § 6605k should apply to each generator of organic waste;

(2) whether the Agency of Natural Resources should modify its existing policy surrounding the source separation of organic wastes; and

(3) any recommendations on the proper use of depackagers in the management of organic waste.

(b) The stakeholder process shall include the following participants appointed by the Secretary of Natural Resources:

(1) a representative of the Agency of Agriculture, Food and Markets;

(2) a food waste composter;

- (3) a farm that allows animals to forage food waste;
- (4) a representative of a company operating a depackaging facility;
- (5) a representative from the Vermont Retailers and Grocers Association;
- (6) a representative from a company that anaerobically digests food waste; and
- (7) a representative from a food product manufacturing company in Vermont.

(c) On or before January 15, 2023, the Secretary of Natural Resources shall submit the recommendations of the stakeholder process required by this section to the Senate Committee on Natural Resources and Energy and the House Committee on Natural Resources, Fish, and Wildlife.

Sec. 26. STUDY ON MICROPLASTICS AND PFAS IN FOOD PACKAGING AND FOOD WASTE

On or before January 15, 2024, the Secretary of Natural Resources, in consultation with the Secretary of Agriculture, Food and Markets, shall submit to the Senate Committee on Natural Resources and Energy and the House Committee on Natural Resources, Fish, and Wildlife a report regarding the prevalence of microplastics and per- and polyfluoroalkyl substances (PFAS) in food waste and food packaging in Vermont. The report shall include:

- (1) a list of the organics management facilities certified in the State under 10 V.S.A. chapter 159;
- (2) a summary of the organics management system in Vermont that includes the transportation of food processing residuals and postconsumer food waste and the materials created by organics management facilities and how that material is managed after creation;
- (3) a summary of existing data on the levels of microplastics and plastics in the material produced from organics management facilities in the State, including whether the materials have levels of PFAS above background levels;
- (4) a summary of the methods used domestically and internationally by jurisdictions with physical contamination standards to evaluate the percentage by weight of physical contamination present in the material produced by depackaging facilities, residual waste, digestate, compost, and soil amendments;
- (5) identification of data gaps to the effective management of microplastics and recommendations on how to close those data gaps; and
- (6) recommendations on management changes that will reduce the

levels of microplastics in the environment, including:

(A) special management requirements at facilities;

(B) bans of certain containers or packaging that pose greater management risks;

(C) restrictions on the location of managing materials that contain high levels of microplastics;

(D) implementation of the food residuals hierarchy set forth in 10 V.S.A. § 6605k or the current requirements around source separation of organic material from waste material; and

(E) if possible in light of the data, a recommendation for a standard methodology for testing microplastics and a health-based standard for microplastics.

Sec. 27. RULEMAKING

(a) The Secretary of Natural Resources shall adopt by rule requirements for the operation of food waste management facilities certified to operate in the State. The rules may:

(1) establish management standards for the operation of a food waste management facility;

(2) prohibit certain containers and packaging from being managed in a food waste management facility;

(3) establish standards for hand source separation instead of mechanical depackaging;

(4) establish requirements for implementation of the food residuals hierarchy set forth in 10 V.S.A. § 6605k;

(5) place restrictions on the types of food waste that may be managed at a food waste management facility;

(6) adopt a testing methodology for microplastics;

(7) adopt a standard for microplastics from food waste management facilities that protects human health or natural resources; or

(8) at the recommendation of the Secretary of Agriculture, Food and Markets, adopt a standard for microplastics or per- and polyfluoroalkyl substances from food waste management facilities that protects animal health, agricultural soils, or other agricultural resources.

(b) The Secretary of Natural Resources shall not initiate rulemaking under this section until the recommendations required by Secs. 25 and 26 of this act are submitted to the Vermont General Assembly.

Sec. 28. REPEAL

Sec. 24 (moratorium on food depackaging facilities) of this act shall be repealed on the date that the rules required under Sec. 27 of this act are adopted and in effect.

* * * Effective Dates * * *

Sec. 29. EFFECTIVE DATES

(a) This section and Secs. 24–28 (food residuals management) shall take effect on passage.

(b) The remainder of the act shall take effect on July 1, 2022.