

SENATE, No. 3398

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED JUNE 3, 2024

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

SYNOPSIS

"Packaging Product Stewardship Act."

CURRENT VERSION OF TEXT

As introduced.



S3398 B.SMITH

2

1 AN ACT concerning the disposal of packaging products, amending
2 P.L.1970, c.39, and supplementing Title 13 of the Revised
3 Statutes.

4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7

8 1. (New section) This act shall be known and may be cited as
9 the "Packaging Product Stewardship Act."

10

11 2. (New section) As used in this act:

12 "Commissioner" means the Commissioner of Environmental
13 Protection.

14 "Department" means the Department of Environmental
15 Protection.

16 "Environmentally sound management practices" means policies
17 or procedures for the collection, storage, transportation, reuse, and
18 recycling or disposal of discarded packaging products, which
19 policies or procedures are established by the department and
20 implemented by a producer or a group of producers to: ensure
21 compliance with all applicable federal, State, and local laws, rules,
22 regulations, and ordinances; protect human health and the
23 environment; and address matters including, but not limited to,
24 adequate recordkeeping and accurate tracking and documentation of
25 the collection, transportation, reuse, and recycling or disposal of
26 discarded packaging products within the State.

27 "Non-participating producer" means a producer who is not a
28 participant in a packaging product stewardship plan adopted and
29 administered by a producer responsibility organization pursuant to
30 this act.

31 "Packaging product" means any product or material designed and
32 used for the containment, protection, handling, delivery, or
33 presentation of another product, including, but not limited to, a food
34 or beverage item, and that is sold, offered for sale, imported, or
35 distributed in the State. "Packaging product" includes: primary
36 packaging that constitutes a sales unit at the point of purchase;
37 secondary packaging that is used to group other products for
38 multiunit sale or is intended to brand or display another product;
39 tertiary packaging that is used either for the transportation and
40 distribution of another product directly to the consumer or for the
41 protection of the product during transport; service packaging,
42 including carry-out bags, bulk goods bags, take-out bags, home
43 delivery food service packaging, and prescription bottles, which are
44 designed and intended to be filled at the point of sale; beverage
45 containers; ancillary elements that are attached to another product

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 and that serve a packaging function; and any other product, whether
2 constituted of paper, plastic, glass, metal, a mixture thereof, or any
3 other material, which serves a packaging function.

4 "Packaging product stewardship plan" or "stewardship plan"
5 means the plan developed pursuant to section 6 of this act, and
6 which provides for the environmentally sound life-cycle
7 management, by participating producers, of packaging products that
8 are sold, offered for sale, imported, or distributed by such producers
9 in this State.

10 "Participating producer" means a producer who is a named
11 participant in a producer responsibility organization's packaging
12 product stewardship plan approved pursuant to section 7 of this act.

13 "Producer" means the producer of packaging as follows:

14 (1) For items sold in a packaging product at a physical retail
15 location in the State:

16 (a) if the item is sold in a packaging product under the
17 manufacturer's own brand or is sold in a packaging product that
18 lacks identification of a brand, the producer is the person that
19 manufactures the packaged item;

20 (b) if the item is manufactured by a person other than the brand
21 owner, the producer is the person that is the licensee of the brand or
22 trademark under which the packaged item is used in a commercial
23 enterprise, sold, offered for sale, or distributed in or into the State,
24 whether or not the trademark is registered in the State; and

25 (c) if there is no person described in subparagraphs (a) and (b) of
26 this paragraph within the United States, the producer is the person
27 that imports the packaged item into the United States for use in a
28 commercial enterprise that sells, offers for sale, or distributes the
29 item in the State;

30 (2) For items sold or distributed in a packaging product in or into
31 the State via remote sale or distribution:

32 (a) the producer of a packaging product used to directly protect
33 or contain the item is the same as the producer pursuant to
34 paragraph (1) of this definition; and

35 (b) the producer of a packaging product used to ship the item to a
36 consumer is the person that packages and ships the item to the
37 consumer; and

38 (3) For all other packaging products, the producer is the person
39 that first distributes the packaged item in or into the State.

40 "Recycling" means any process by which materials or products
41 that would otherwise become solid waste are collected, separated,
42 or processed and returned to the economic mainstream in the form
43 of raw materials or products. "Recycling" shall not include energy
44 recovery or energy generation resulting from combustion or
45 incineration processes.

46 "Reuse" means the return of a packaging product back into the
47 economic stream for use in the same kind of application intended
48 for the original packaging product, without effectuating a change in

1 the original composition or identity of the product or the
2 components thereof.

3 "Small producer" means a producer that: (1) is a nonprofit
4 organization; (2) is a public entity; (3) has a gross revenue of less
5 than \$5 million for the producer's most recent fiscal year; (4) sold
6 in or into the State less than one metric ton of packaging products
7 for use in the State in the most recent calendar year; (5) is a
8 manufacturer of a beverage sold in a beverage container, and sold in
9 or into the State less than five metric tons of packaging products,
10 including, but not limited to, secondary and tertiary packaging for
11 beverage containers, for use in the State in the most recent calendar
12 year; (6) is a restaurant, food cart, or other similar business
13 establishment that primarily sells to members of the public food that
14 is generally intended to be consumed immediately and without the
15 need for further preparation, either on or off the premises; or (7)
16 operates a single retail sales establishment, has no online sales, and
17 is not supplied or operated as part of a franchise or a chain.

18

19 3. (New section) a. No later than one year after the effective
20 date of this act, the department shall prepare a Statewide needs
21 assessment that is designed to determine the necessary steps and
22 investments, in both the private and public sector, needed to
23 effectuate the requirements of this act. In order to comply with the
24 provisions of this section, the department may prepare either several
25 needs assessments, with each assessment specific to one or more
26 types of packaging covered under this act, or a single,
27 comprehensive needs assessment that includes reference to all
28 materials covered under this act.

29 b. A Statewide needs assessment prepared under this section
30 shall be updated every five years or on a more frequent basis, as
31 determined by the department to be necessary to ensure compliance
32 with the requirements of this act.

33 c. The department may select, and contract with, a State
34 institution of higher education to complete the needs assessment
35 required by this section, or any update thereto.

36 d. A Statewide needs assessment, prepared pursuant to this
37 section, shall:

38 (1) include an estimate of the costs of solid waste and recycling
39 infrastructure and systems upgrades needed for producers to meet
40 the requirements of section 5 of this act, for each of the ten years
41 following the year in which the needs assessment or update thereto
42 is prepared;

43 (2) be developed in collaboration and consultation with a
44 diverse array of local governments, recycling service providers, and
45 processors sufficient to reflect the distinct needs and challenges
46 faced by urban, suburban, and rural communities of varying
47 population densities and socioeconomic perspectives;

- 1 (3) beginning two years after the effective date of this act, be
2 developed in collaboration and consultation with each producer
3 responsibility organization in the State;
- 4 (4) be designed to inform a producer responsibility organization's
5 budget and packaging product stewardship plan;
- 6 (5) develop a system through which a producer responsibility
7 organization or the department, as appropriate, may disburse funds
8 to local governments or recycling service providers to fund the
9 increase in volume of recycled material required under this act; and
- 10 (6) include an evaluation of:
- 11 (a) existing State statutory provisions and funding sources
12 related to market development and financial incentives which may
13 be used to achieve the State's goals related to recycling and
14 pollution prevention;
- 15 (b) the current recycling, composting, collection, and hauling
16 systems in the State and a description of any needed enhancements
17 to the system;
- 18 (c) the existing levels of access of multifamily residences to on-
19 premises recycling facilities or capabilities, and the need to expand
20 such access;
- 21 (d) the recycling capacity and infrastructure in the State and
22 region and the ability for innovative and advanced technologies
23 such as artificial intelligence and robotics to improve that capacity;
- 24 (e) current market conditions and the need to create viable and
25 responsible end markets for recycled content in the State and
26 region;
- 27 (f) the need for enhanced consumer education to promote,
28 facilitate, and maximize consumer recycling, composting, reuse,
29 and reduction activities;
- 30 (g) funding needs and actions necessary to achieve the
31 requirements of this act, including the need to finance payments to
32 recyclers, market incentive payments, or other payments necessary
33 to achieve the requirements of this act;
- 34 (h) factors contributing to the rate of inbound contamination, and
35 actions and investments needed and undertaken to avoid
36 contamination and facilitate the recycling of packaging products as
37 necessary to ensure that the material meets quality standards for
38 remanufacturing;
- 39 (i) the need to shift types of packaging that are unlikely to
40 develop sustained viable and responsible end markets to a type of
41 packaging that either has a viable and responsible end market or is
42 likely to develop such a market;
- 43 (j) actions and investments necessary to modify the design of
44 packaging products so as to improve their reusability, recyclability,
45 and compostability;
- 46 (k) the funding needed to implement the source reduction
47 requirements established in section 5 of this act, including, but not
48 limited to, investments needed to develop infrastructure for reusable

1 and refillable packaging and to provide consumers with convenient
2 access to that infrastructure; and

3 (l) any other actions or investments that the department believes
4 would be effective in achieving the State's source reduction and
5 recycling requirements, or to otherwise effectuate the purposes of
6 this act.

7 e. A Statewide needs assessment, prepared pursuant to this
8 section, shall not propose any investment in activities that would be
9 contrary to the goals of the State Recycling Plan developed
10 pursuant to the "New Jersey Statewide Mandatory Source
11 Separation and Recycling Act," P.L.1987, c.102 (C.13:1E-99.32 et
12 seq.) or that would be in violation of an agreement entered into
13 pursuant that act.

14 f. A Statewide needs assessment may include specific elements
15 that are designed to:

16 (1) expand access to, or otherwise improve, curbside collection
17 services wherever feasible;

18 (2) expand access to drop-off recycling services or other
19 mechanisms where curbside collection services are not feasible, or
20 as necessary to supplement curbside collection services to meet the
21 requirements of this act;

22 (3) expand access to collection services in public spaces;

23 (4) create, expand, or enhance on-premises access to recycling
24 services for multifamily residences;

25 (5) fund, provide, or facilitate the efficient transport of
26 packaging products to centralized sorting facilities, brokers, and
27 viable and responsible end markets;

28 (6) enhance and expand existing recycling infrastructure through
29 the use of quality incentive payments, grants, and other mechanisms
30 sufficient to cover the cost of separating, processing, baling,
31 recycling, composting, remanufacturing, and transporting materials;
32 or

33 (7) expand access to, or expand the State's capacity for, source
34 separated, multi-stream recycling.

35 g. A Statewide needs assessment prepared pursuant to this
36 section, and any updates thereto, shall be developed through a
37 public process, which includes at least one public meeting at which
38 a producer responsibility organization, the Advisory Council on
39 Solid Waste Management established pursuant to section 8 of
40 P.L.1970, c.39 (C.13:1E-8), and any interested members of the
41 public are given the opportunity to comment.

42

43 4. (New section) a. Except as otherwise provided by this
44 section, no later than two years after the effective date of this act,
45 producers of packaging products shall establish or join a producer
46 responsibility organization in order to comply with this act. Upon
47 the formation of a producer responsibility organization, the
48 producer responsibility organization's participating producers shall

1 elect a governing body, and the governing body shall submit an
2 application to the department demonstrating that the producer
3 responsibility organization meets the requirements for approval
4 pursuant to this section.

5 b. The department shall approve, for the purposes of this act, the
6 formation of up to 10 producer responsibility organizations,
7 provided that each:

8 (1) complies with the requirements of this act and the rules and
9 regulations adopted pursuant thereto;

10 (2) has a governing board that consists of participating producers
11 representing the packaging materials placed in the market by those
12 producers, and, if deemed by the participating producers to be
13 warranted, that includes nonvoting members who represent material
14 trade associations and companies; and

15 (3) demonstrates, to the department's satisfaction, that it has
16 adequate financial responsibility and financial controls in place,
17 including fraud prevention measures and an auditing schedule, to
18 ensure the proper management of the producer responsibility
19 organization's funds.

20 c. If the department determines that a producer responsibility
21 organization approved pursuant to this section no longer meets the
22 requirements of this act or has failed to implement and administer
23 an approved packaging product stewardship plan in a manner that
24 effectuates the purposes of this act, the department shall revoke the
25 producer responsibility organization's approval.

26 d. Except as otherwise provided in subsection f. of this section,
27 upon approval of the first producer responsibility organization's
28 packaging product stewardship plan, or commencing five years
29 after the effective date of this act, whichever is sooner, a producer
30 shall be prohibited from selling, offering for sale, importing, or
31 distributing packaging products in or into the State unless the
32 producer is a participating producer.

33 e. Commencing two years after the effective date of this act, any
34 entity that becomes a producer shall, within six months of
35 qualifying as a producer, become a participating producer in an
36 approved producer responsibility organization, or shall submit a
37 packaging product stewardship plan pursuant to subsection f. of this
38 section, and shall comply with the provisions of this act.

39 f. Notwithstanding any provisions of this act to the contrary, a
40 producer may comply with the provisions of this act without
41 participating in a producer responsibility organization's packaging
42 product stewardship plan. A non-participating producer shall be
43 responsible for complying with the provisions of this act, including,
44 but not limited to:

45 (1) developing and implementing a plan that complies with all
46 of the applicable requirements of a packaging product stewardship
47 plan, including, but not limited to, the review, update, and approval
48 requirements set forth in section 7 of this act.

1 (2) fully covering the costs associated with complying with the
2 provisions of this act and implementing the provisions of an
3 approved packaging product stewardship plan, to the same extent as
4 a participating producer, based on the non-participating producer's
5 market share of packaging products; and

6 (3) providing an annual report to the department pursuant to
7 section 10 of this act.

8 g. Regardless of whether a producer participates in a producer
9 responsibility organization, every producer in the State shall file its
10 primary business address with the department, in a manner
11 determined by the department. Each producer shall notify the
12 department of any change in their business address within 30 days
13 after the change. A producer responsibility organization may
14 satisfy the requirements of this subsection, on behalf of a
15 participating producer, by including the participating producer's
16 primary business address in a packaging product stewardship plan,
17 update, or annual report submitted to the department, or by
18 otherwise notifying the department of the participating producer's
19 address or any change of address.

20 h. A producer responsibility organization approved pursuant to
21 this section shall notify the department, within 30 days, of any the
22 following:

23 (1) the end of any three-month period in which the producer
24 responsibility organization unsuccessfully attempted to obtain a fee,
25 records, or information from a participating producer, or received
26 incomplete or incorrect records or information from a participating
27 producer;

28 (2) the date on which a participating producer no longer
29 participates in the producer responsibility organization's approved
30 packaging product stewardship plan; and

31 (3) any other instance of noncompliance by a participating
32 producer.

33

34 5. (New section) a. A producer responsibility organization shall
35 ensure that:

36 (1) commencing January 1, 2032, the cumulative amount of
37 single-use packaging products sold, offered for sale, imported, or
38 distributed in or into the State by the producer responsibility
39 organization's members has been reduced by 25 percent by volume,
40 using the amount sold during the previous full calendar year prior to
41 the effective date of this act as a baseline,

42 (2) at least 10 percent of the source reduction required pursuant
43 to paragraph (1) of this subsection has been achieved by shifting a
44 single use packaging product to a refillable or reusable product, or
45 by eliminating a plastic component;

46 (3) commencing January 1, 2034, all packaging products sold,
47 offered for sale, imported, or distributed in or into the State by the

1 producer responsibility organization's members are either
2 compostable or recyclable, as determined by the department; and

3 (4) commencing January 1, 2036, the packaging products sold,
4 offered for sale, imported, or distributed in or into the State by the
5 producer responsibility organization's members are recycled at a
6 rate of not less than 65 percent.

7 b. No later than one year after the effective date of this act, the
8 department shall establish, by rules and regulations adopted
9 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
10 (C.52:14B-1 et seq.). interim targets and requirements to assist
11 producers in meeting the requirements established by subsection a.
12 of this section.

13 c. Commencing two years after the effective date of this act and
14 biennially thereafter, the department, in consultation with the
15 Advisory Council on Solid Waste Management established pursuant
16 to section 8 of P.L.1970, c.39 (C.13:1E-8), shall review relevant
17 data to assess whether the recycling and source reduction
18 requirements established pursuant to subsection a. or b. of this
19 section, as appropriate, should be adjusted. The department shall
20 make its determination and rationale available for public review by
21 publishing a report on its Internet website. If the department
22 determines that current unforeseen and anomalous market
23 conditions, including, but not limited to, recycling infrastructure
24 conditions, warrant an adjustment, the department may adopt rules
25 and regulations to adjust the interim requirements established
26 pursuant to subsection b. of this section.

27
28 6. (New section) a. No later than five years after the effective
29 date of this act, each approved producer responsibility organization
30 in the State shall develop, in consultation with appropriate
31 stakeholders, including, but not limited to, producers, local
32 governments, recycling service providers, appropriate nonprofit
33 organizations, and residents, a packaging product stewardship plan.
34 A producer responsibility organization shall submit a draft of its
35 packaging product stewardship plan to the Advisory Council on
36 Solid Waste Management established pursuant to section 8 of
37 P.L.1970, c.39 (C.13:1E-8) for review and comment, prior to
38 submitting the plan to the department. The council shall provide
39 the producer responsibility organization with written comments on
40 the plan within 60 days after receipt thereof. The producer
41 responsibility organization shall consider the comments and may
42 incorporate these comments into the plan. The producer
43 responsibility organization shall submit the finalized packaging
44 product stewardship plan to the department within 120 days after
45 receipt of the council's comments, and the department shall review
46 the plan for compliance with the provisions of this act.

47 b. A stewardship plan developed pursuant to this section shall:

- 1 (1) identify, and provide contact information for, each producer
2 participating in the plan;
- 3 (2) include a comprehensive list of the packaging products that
4 are covered by the plan, including, as applicable, the brand names
5 of any such packaging products;
- 6 (3) identify the means, methods, processes, procedures, systems,
7 and strategies that will be used by participating producers to: (a)
8 reduce, through product design modifications and program
9 innovation, the amount of material that is used for each packaging
10 product and the amount of waste resulting from the use of each
11 packaging product; (b) facilitate and promote the prompt and
12 efficient collection of discarded packaging products throughout the
13 State in a manner that is as, or more, convenient for consumers than
14 the other collection programs available prior to the implementation
15 of the packaging product stewardship plan; (c) transport discarded
16 packaging products to authorized storage and recycling facilities;
17 and (d) facilitate the reuse of discarded packaging products for
18 alternate second-life purposes, the processing and recycling of
19 discarded packaging products that cannot be reused for alternate
20 second-life purposes, and the proper end-of-life disposal, in
21 accordance with environmentally sound management practices, of
22 discarded packaging products that cannot be reused or recycled;
- 23 (4) identify the methods that will be used by participating
24 producers to meet the source reduction and recycling goals
25 established pursuant to section 5 of this act;
- 26 (5) describe the ways in which existing municipal solid waste
27 collection and recycling infrastructure will be used to implement
28 the stewardship plan, or, if existing infrastructure will not be used,
29 provide an explanation as to why it is necessary to establish
30 separate infrastructure, as well as a description of how the separate
31 infrastructure system will function, and an indication of the date by
32 which the separate infrastructure system is expected to commence
33 operations;
- 34 (6) describe the ways in which the participating producers will
35 work with existing waste haulers, storage and recycling facilities,
36 and local governments throughout the State to effectuate the
37 collection, transportation, reuse, and recycling or disposal of
38 packaging products, in accordance with environmentally sound
39 management practices, and identify the name and address of all
40 authorized recyclers that will be directly utilized pursuant to the
41 plan;
- 42 (7) certify that participating producers will use open,
43 competitive, and fair procurement practices, in compliance with the
44 "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et
45 seq.), when directly entering into contractual agreements with local
46 governments and other service providers pursuant to the
47 stewardship plan;

- 1 (8) describe the process that was used, during the development
- 2 of the stewardship plan, to receive, consider, and implement the
- 3 comments of various stakeholders, as well as the nature of
- 4 stakeholder comments received during the plan development period,
- 5 and the extent to which the stakeholders' comments were
- 6 incorporated into the stewardship plan;
- 7 (9) describe the means and methods that will be used by
- 8 participating producers to facilitate public outreach, education, and
- 9 communication with respect to the stewardship plan, in accordance
- 10 with the provisions of section 9 of this act;
- 11 (10) describe how the stewardship plan will be administered,
- 12 and identify the staff members who will be responsible for ensuring
- 13 proper administration of the plan;
- 14 (11) include a budget that provides for the implementation of the
- 15 stewardship plan developed pursuant to the provisions of this
- 16 subsection and subsection c. of this section, and any rules and
- 17 regulations adopted by the department;
- 18 (12) include a description of the fee system developed pursuant
- 19 to subsection d. of this section and the annual fee to be imposed on
- 20 each producer;
- 21 (13) describe the amount and nature of packaging sold by the
- 22 producer responsibility organization's members, in order to
- 23 establish a baseline for the purposes of complying with the
- 24 requirements of section 5 of this act.
- 25 c. Each packaging product stewardship plan shall include a
- 26 budget designed to fully fund the costs necessary to implement the
- 27 provisions of the plan. The budget shall identify, at a minimum:
- 28 (1) the amount of funding needed and available to finance
- 29 actions and investments identified in the packaging product
- 30 stewardship plan and actions and investments designed to address
- 31 the issues identified in a Statewide needs assessment carried out
- 32 pursuant to section 3 of this act; and
- 33 (2) the costs actually or expected to be incurred:
- 34 (a) by local governments, recycling service providers, and other
- 35 collection programs in association with the implementation of the
- 36 packaging product stewardship plan and this act;
- 37 (b) in association with consumer outreach and education efforts
- 38 undertaken as part of the packaging product stewardship plan;
- 39 (c) in association with the transportation of packaging products
- 40 to a recycling center, broker, or viable and responsible end market;
- 41 (d) in association with the cleaning, sorting, aggregating, and
- 42 baling of packaging products, as necessary to bring those materials
- 43 to a viable and responsible end market;
- 44 (e) in association with the administration and operation of the
- 45 producer responsibility organization; and
- 46 (f) in association with the surcharge imposed pursuant to section
- 47 8 of this act.

1 d. The budget developed under this section shall be evaluated by
2 an independent financial auditor, as designated by the department,
3 to ensure that the budget is sufficient to cover all of the costs
4 associated with implementation of the stewardship plan.

5 e. A producer responsibility organization shall annually raise
6 sufficient revenue to fully fund all costs identified in its budget.
7 The revenue shall be raised through a system of fees to be imposed
8 on producers that are members of a producer responsibility
9 organization. The fee system shall impose fees on producers in
10 proportion to the amount, by weight or volume, as appropriate, of
11 packaging products sold, offered for sale, imported, or distributed in
12 or into the State by the producer. In addition, the fee system shall
13 impose fees that are proportional to the environmental impact of the
14 packaging products, consistent with the following provisions:

15 (1) packaging products that are certified as being reusable or
16 reused shall be levied no fee;

17 (2) packaging products that are composed of recycled content,
18 are recyclable, or are biodegradable shall be levied the lowest fee;

19 (3) the fees shall be inversely proportional to the percentage of
20 recycled content in the products, and the ease of recycling the
21 products;

22 (4) the fees shall be proportional to the amount of virgin material
23 used in the products, and the percentage of non-biodegradable
24 materials, including plastic, in the packaging;

25 (5) the presence of hazardous materials in the products, as
26 identified by the Department of Health or the department, shall be
27 associated with a higher fee; and

28 (6) the incorporation of elements, including, but not limited to,
29 inks, labels, and adhesives, that prevent an otherwise recyclable or
30 biodegradable product from being recyclable or biodegradable, as
31 applicable, shall be associated with a higher fee.

32
33 7. (New section) a. Not more than 120 days after receipt of a
34 completed packaging product stewardship plan, submitted pursuant
35 to section 6 of this act, the commissioner shall approve,
36 conditionally approve, or disapprove the plan and provide written
37 notice of the determination to the producer responsibility
38 organization. If the commissioner does not provide written notice
39 of the determination made pursuant to this section within the
40 timeframe specified by this subsection, the plan shall be deemed to
41 have been approved, and the producer responsibility organization
42 shall proceed to implement the plan as provided by paragraph (1) of
43 subsection c. of this section. In making a determination pursuant to
44 this section, the commissioner may solicit information from the
45 representatives of recycling facilities and other stakeholders, as the
46 commissioner deems appropriate.

47 b. A stewardship plan shall not be approved, pursuant to this
48 section, unless the commissioner determines that:

1 (1) the producer responsibility organization has engaged in
2 satisfactory consultation with stakeholders in the development of
3 the plan;

4 (2) the plan adequately addresses all of the elements described
5 in subsection b. of section 6 of this act in sufficient detail to
6 demonstrate that the objectives of the plan will be met; and

7 (3) the plan contains an adequate financing mechanism,
8 developed pursuant to subsection e. of section 6 of this act, and a
9 budget that has been verified by an independent financial auditor.

10 c. (1) If a packaging product stewardship plan is approved
11 pursuant to this section, the producer responsibility organization
12 shall implement the approved plan within 90 days after receipt of
13 the commissioner's written notice or after the expiration of the 120-
14 day period established by subsection a. of this section, as the case
15 may be, or within another timeframe agreed to by the
16 commissioner.

17 (2) If a packaging product stewardship plan is conditionally
18 approved pursuant to this section, the commissioner's written notice
19 shall specify the conditions that are to be satisfied in order for the
20 plan to be deemed approved pursuant to this act. The producer
21 responsibility organization shall implement the conditionally
22 approved plan, in accordance with the conditions specified in the
23 notice, either within 90 days after receipt of the commissioner's
24 notice or within another timeframe agreed to by the commissioner.

25 (3) If a packaging product stewardship plan is disapproved
26 pursuant to this section, the commissioner's written notice shall be
27 accompanied by a detailed statement describing the reasons for
28 disapproval. Not more than 30 days after receipt of the
29 commissioner's notice and accompanying statement of the reasons
30 for disapproval, the producer responsibility organization shall
31 submit a revised packaging product stewardship plan to the
32 commissioner, who shall approve, conditionally approve, or
33 disapprove of the revised plan in accordance with the provisions of
34 subsection a. of this section.

35 d. Not more than 90 days after approving a packaging product
36 stewardship plan pursuant to this section, or any revisions thereto,
37 the commissioner shall post the plan at a publicly accessible
38 location on the department's Internet website, together with a list of
39 the producers participating in the plan and a list of the packaging
40 products covered thereunder.

41 e. (1) A stewardship plan approved pursuant to this section
42 shall be reviewed and updated by the producer responsibility
43 organization, and reapproved by the commissioner, at least once
44 every five years, in accordance with the procedures specified in this
45 section.

46 (2) Notwithstanding the provisions of paragraph (1) of this
47 subsection to the contrary, the commissioner may, at any time,
48 review a previously approved packaging product stewardship plan

1 to determine whether the plan is being implemented in accordance
2 with this act. If the commissioner, at any time, finds that the
3 approved plan, as implemented, is deficient, the commissioner may
4 order the producer responsibility organization to incorporate
5 modifications to the plan or to the implementation thereof, as may
6 be necessary to ensure that the plan, as implemented, fully complies
7 with the provisions of this act.

8
9 8. (New section) a. There is established the "Packaging
10 Reduction and Recycling Fund" as a separate, non-lapsing fund in
11 the Department of the Treasury. The "Packaging Reduction and
12 Recycling Fund" shall be credited with all surcharges, interest,
13 penalties, and other amounts collected and paid to the Division of
14 Taxation in the Department of the Treasury pursuant to this section.
15 Moneys in the "Packaging Reduction and Recycling Fund " shall be
16 expended only to fund efforts identified in a Statewide needs
17 assessment carried out pursuant to section 3 of this act, in the form
18 of grants or low-interest loans issued by the department, or to
19 administer or enforce the provisions of this act, including the
20 transfer of moneys into the General Fund to repay moneys
21 expended by the department or any other State agency during fiscal
22 years prior to the deposit of moneys in the fund.

23 b. Pending the use thereof pursuant to the provisions of this
24 section, the monies deposited in the fund shall be held in interest-
25 bearing accounts in public depositories, as defined pursuant to
26 section 1 of P.L.1970, c.236 (C.17:9-41), and may be invested or
27 reinvested in such securities as are approved by the State Treasurer.
28 Interest or other income earned on monies deposited into the fund
29 shall be credited to the fund for use as set forth in this act for other
30 monies in the fund.

31 c. Commencing six years after the effective date of this act, each
32 producer responsibility organization and non-participating producer
33 shall pay an annual surcharge as assessed by the Director of the
34 Division of Taxation in the Department of the Treasury, to be
35 deposited in the "Packaging Reduction and Recycling Fund." The
36 total amount of the surcharge shall be the lesser of:

37 (1) the amount of funding required during the next fiscal year to
38 fund the costs of solid waste and recycling infrastructure and
39 systems upgrades needed for producers to meet the requirements of
40 section 5 of this act, as determined in the Statewide needs
41 assessment carried out pursuant to section 3 of this act, plus the
42 amount needed to administer and enforce this act during the next
43 fiscal year; and

44 (2) \$120 million.

45 d. The amount owed by each producer responsibility
46 organization and non-participating producer shall be a prorated
47 proportion of the total amount, based on the market share of
48 packaging products sold, offered for sale, imported, or distributed in

1 or into the State by a producer responsibility organization's
2 members or the non-participating producer, as applicable, as
3 determined by the department.

4 e. On or before March 1 of each year beginning six years after
5 the effective date of this act, the department shall transmit, to the
6 Director of the Division of Taxation in the Department of the
7 Treasury, documentation identifying the name and address of each
8 producer responsibility organization and non-participating producer
9 who is liable for the surcharge imposed under this section and the
10 amount of the surcharge to be assessed against each such person;
11 and providing a contact number for a department staff member who
12 is able to respond to questions about the surcharge. The director
13 shall transmit, to each producer responsibility organization and non-
14 participating producer who is liable for the surcharge imposed
15 under this section, a written determination to that effect.

16 f. Moneys appropriated from the "Packaging Reduction and
17 Recycling Fund" shall not replace or reduce the allocation of any
18 other funding.

19

20 9. (New section) a. Producers shall conduct public outreach and
21 provide consumers with educational and informational materials, in
22 a form and manner prescribed by the department, related to the
23 producer's packaging product stewardship plan and the services
24 provided thereunder. Producers shall also respond to questions, and
25 address concerns, that are directly raised by consumers in
26 association with the implementation of the stewardship plan.

27 b. The outreach conducted, and the educational and
28 informational materials provided, under this subsection shall:

29 (1) provide information on the proper end-of-life management
30 of discarded packaging products, including the end-of-life recycling
31 and other environmentally sound disposal options that are available
32 under the stewardship plan, as well as the location and availability
33 of curbside and drop-off collection opportunities;

34 (2) provide instructions to enable consumers to carry out the
35 recycling or composting of discarded packaging products, which
36 instructions shall be easily accessible, easy to understand, and, to
37 the extent practicable, applicable on a Statewide basis, taking into
38 account the differences among local laws and processing
39 capabilities;

40 (3) describe the environmental impact associated with the
41 improper disposal of packaging products, and encourage consumers
42 to avoid the littering of discarded packaging products;

43 (4) notify consumers that participating producers will be
44 responsible for covering the costs of implementing the stewardship
45 plan; and

46 (5) provide consumers with any other information required by
47 the department.

1 c. The public outreach and education program, established
2 pursuant to subsection a. of this section, shall:

3 (1) utilize all available forms of media, including, but not
4 limited to, television, radio, print media, signage, the Internet, and
5 social media, to provide information directly to consumers in the
6 State;

7 (2) be coordinated with the various municipalities in the State
8 and incorporate electronic, print, web-based, and social media
9 elements that individual municipalities may elect to use, at their
10 discretion, to provide education directly to their residents;

11 (3) to the extent deemed necessary and appropriate, provide for
12 producers to affix, to their packaging products, a label that contains
13 information necessary to help consumers responsibly manage and
14 recycle the packaging products at the end of their useful life; and

15 (4) to the extent practicable, be coordinated with other similar
16 public outreach and education programs in the State, as necessary to
17 avoid consumer confusion and facilitate the consolidated use of
18 available resources.

19 d. In addition to engaging in public outreach and education, as
20 required by subsection a. of this section, a producer shall be
21 authorized to provide retailers with educational and informational
22 materials related to the producer's packaging product stewardship
23 plan, the services provided thereunder, and the role of retailers in
24 facilitating the successful implementation of the plan. The
25 educational and informational materials provided to a retailer under
26 this subsection may include, but need not be limited to, printed
27 materials, signage, templates of materials that can be reproduced by
28 retailers and provided thereby to consumers at the time of a
29 product's purchase, and advertising materials that promote
30 consumer participation in the packaging product stewardship plan.

31

32 10. (New section) a. Not more than one year after an approved
33 packaging product stewardship plan is implemented pursuant to
34 subsection c. of section 7 of this act, and annually thereafter, a
35 producer responsibility organization shall submit a written report to
36 the department evaluating the implementation of the plan. Each
37 annual report shall include, but need not be limited to, the following
38 information:

39 (1) a list of the producers participating in the plan and the
40 packaging products covered under the plan;

41 (2) a description of the methods used to collect, transport, reuse,
42 and recycle or dispose of discarded packaging products under the
43 stewardship plan, in accordance with environmentally sound
44 management practices;

45 (3) the total volume of discarded packaging products collected
46 under the stewardship plan;

47 (4) the volume of collected packaging products that have been
48 disposed under the stewardship plan, by method of disposition,

- 1 including reuse, recycling, and disposal in accordance with
2 environmentally sound management practices;
- 3 (5) the total cost of implementing the stewardship plan, as
4 determined by an independent financial audit, including separate
5 figures for the costs of collection, transportation, reuse, recycling,
6 disposal, outreach, and any other activities that involved the
7 expenditure of funds under the stewardship plan; and
- 8 (6) samples of the educational materials that have been
9 provided, to consumers and retailers pursuant to section 9 of this
10 act, together with an evaluation of the methods used to disseminate
11 those materials and an assessment of the effectiveness of those
12 materials, including associated levels of waste prevention and reuse
13 or recycling that have been evidenced since outreach efforts were
14 commenced pursuant to section 9 of this act;
- 15 (7) an evaluation of the effectiveness of the stewardship plan
16 and any steps necessary to improve the plan's effectiveness; and
- 17 (8) any other information required by the commissioner.
- 18 b. Within 90 days after receipt of each annual report submitted
19 pursuant to this section, the commissioner shall:
- 20 (1) review the report;
- 21 (2) post the report on the department's Internet website; and
- 22 (3) prepare, and post on the department's Internet website, a
23 summary report describing the progress that is being made under
24 the stewardship plan and any corrective action ordered by the
25 commissioner pursuant to this act.
- 26 c. The department shall not disclose any financial, production,
27 or sales data reported by a producer pursuant to this section, except
28 that the department may disclose such data in aggregate or summary
29 format, provided that the producers and their financial, production,
30 or sales data are not specifically identified, and provided that the
31 summary omits any reference to unique characteristics from which
32 the identities of individual producers might be inferred or otherwise
33 ascertained.
- 34
- 35 11. (New section) a. Whenever the commissioner finds that a
36 person has violated any provision of this act, any rule or regulation
37 adopted pursuant thereto, or any provision of a stewardship plan
38 approved thereunder, or has knowingly made a false statement,
39 representation, or certification in any application, record, plan, or
40 other document filed or required to be maintained pursuant to this
41 act, the commissioner may:
- 42 (1) issue an order, in accordance with subsection b. of this
43 section, requiring the violator to comply with the provisions of this
44 act, the rules or regulations adopted pursuant thereto, or the
45 stewardship plan approved thereunder, as the case may be;
- 46 (2) bring a civil action in accordance with subsection c. of this
47 section;

1 (3) levy a civil administrative penalty in accordance with
2 subsection d. of this section;

3 (4) bring an action for a civil penalty in accordance with
4 subsection e. of this section; or

5 (5) notify the public of a producer that is not in compliance with
6 the requirements of this act.

7 Pursuit of any of the remedies specified under this section shall
8 not preclude the seeking of any other remedy specified.

9 b. Whenever the commissioner finds that a person has violated
10 this act, any rule or regulation adopted pursuant thereto, or any
11 provision of a stewardship plan approved thereunder, the
12 commissioner may issue an administrative enforcement order to the
13 person: specifying the provision or provisions that the person has
14 violated; citing the action that constituted the violation; requiring
15 the person's compliance with the provision violated; and giving
16 notice of the person's right to a hearing on the matters contained in
17 the administrative enforcement order. The person subject to the
18 order shall have 20 calendar days from receipt of the order within
19 which to deliver to the commissioner a written request for a
20 hearing. After the hearing, and upon finding that a violation has
21 occurred, the commissioner may issue a final order. If no hearing is
22 requested, the order shall become final after the expiration of the
23 20-day period. A request for hearing shall not automatically stay
24 the effect of the order.

25 c. The commissioner shall be authorized to institute a civil
26 action in Superior Court for appropriate relief from any violation of
27 the provisions of this act, or of any rule or regulation adopted
28 pursuant thereto, or of a stewardship plan approved thereunder.
29 Such relief may include, singly or in combination:

30 (1) a temporary or permanent injunction;

31 (2) recovery of the reasonable costs of any investigation or
32 inspection that led to the discovery of the violation, and for the
33 recovery of the reasonable costs of preparing and bringing a civil
34 action commenced under this subsection;

35 (3) recovery of reasonable costs incurred by the State in
36 removing, correcting, or terminating the adverse effects resulting
37 from the violation for which a civil action has been commenced and
38 brought under this subsection;

39 (4) recovery of compensatory damages caused by a violation for
40 which a civil action has been commenced and brought under this
41 subsection. Assessments under this subsection shall be paid to the
42 State Treasurer, except that compensatory damages may be paid by
43 specific order of the court to any persons who have been aggrieved
44 by the violation.

45 d. (1) The commissioner shall be authorized to assess a civil
46 administrative penalty of not less than \$5,000 nor more than
47 \$10,000 for each violation, provided that each day during which the
48 violation continues shall constitute an additional, separate, and

1 distinct offense. In assessing a civil administrative penalty, the
2 commissioner shall consider the severity of the violation, the
3 measures taken to prevent further violations, and whether the
4 penalty will act as an appropriate deterrent.

5 (2) Prior to the assessment of a civil administrative penalty
6 under this subsection, the person committing the violation shall be
7 notified by certified mail or personal service that the penalty is
8 being assessed. The notice shall identify the section of the statute,
9 rule, regulation, or order, or the provision of the stewardship plan,
10 that was violated; recite the facts alleged to constitute a violation;
11 state the basis for the amount of the civil administrative penalties to
12 be assessed; and affirm the rights of the alleged violator to a
13 hearing. The ordered party shall have 35 days from receipt of the
14 notice within which to deliver to the commissioner a written request
15 for a hearing. After the hearing and upon finding that a violation
16 has occurred, the commissioner may issue a final order after
17 assessing the amount of the fine specified in the notice. If no
18 hearing is requested, the notice shall become a final order after the
19 expiration of the 35-day period. Payment of the assessment is due
20 when a final order is issued or the notice becomes a final order.

21 (3) The authority to levy an administrative order is in addition to
22 all other enforcement provisions in this act, and the payment of any
23 assessment shall not be deemed to affect the availability of any
24 other enforcement provisions in connection with the violation for
25 which the assessment is levied. The department may compromise
26 any civil administrative penalty assessed under this section in an
27 amount and with conditions the department determines appropriate.

28 e. A person who violates any provision of this act, or any rule
29 or regulation adopted pursuant thereto, or the provisions of a
30 stewardship plan approved thereunder, or an administrative order
31 issued pursuant to subsection b. of this section, or a court order
32 issued pursuant to subsection c. of this section, or who fails to pay a
33 civil administrative penalty in full pursuant to subsection d. of this
34 section, or who knowingly makes any false or misleading statement
35 on any application, record, report, or other document required to be
36 submitted to the department, shall be subject, upon order of a court,
37 to a civil penalty not to exceed \$10,000 per day of the violation, and
38 each day during which the violation continues shall constitute an
39 additional, separate, and distinct offense. Any civil penalty
40 imposed pursuant to this subsection may be collected with costs in a
41 summary proceeding pursuant to the "Penalty Enforcement Law of
42 1999," P.L.1999, c.274 (C.2A:58-10 et seq.), or may be collected in
43 a civil action commenced by the commissioner. In addition to any
44 penalties, costs, or interest charges, the Superior Court, or the
45 municipal court as the case may be, may assess against the violator
46 the amount of economic benefit accruing to the violator from the
47 violation.

1 f. All penalties collected by the department pursuant to this act
2 shall be deposited into the to the "Packaging Reduction and
3 Recycling Fund" established pursuant to section 8 of this act, and
4 appropriated annually for the continued administration and
5 enforcement of this act.

6
7 12. (New section) a. Except as provided in subsection b. of this
8 section, an action undertaken by a producer or group of producers,
9 which affects the types or quantities of packaging products being
10 recycled or the cost or structure of any collection or recycling
11 program, shall not be deemed to constitute a violation of any State
12 law relating to antitrust, restraint of trade, unfair trade practices, or
13 the regulation of trade or commerce, so long as the action is
14 necessary to plan for or implement the organized collection or
15 recycling of packaging products pursuant to this act.

16 b. The provisions of subsection a. of this section shall not
17 apply to:

18 (1) any agreement establishing or affecting the price of a
19 product; or

20 (2) any agreement restricting the output or production of a
21 product or the geographic area or customers to which a product will
22 be sold.

23

24 13. (New section) A packaging product shall be exempt from the
25 requirements of this act if it:

26 a. contains drugs, dietary supplements, medical devices, or
27 cosmetics as those terms are defined in the Federal Food, Drug, and
28 Cosmetic Act, 21 U.S.C. s.301 et seq.;

29 b. contains toxic or hazardous products regulated under the
30 "Federal Insecticide, Fungicide, and Rodenticide Act," 7 U.S.C.
31 s.136 et seq.; or

32 c. is manufactured for use in the shipment of hazardous
33 materials and is: (a) prohibited from being manufactured with used
34 material by federal packaging material specifications set forth in 49
35 C.F.R. s.178.509 and 49 C.F.R. s.178.522, (b) is subject to the
36 testing standards set forth in 49 C.F.R. s.178.600 through 49 C.F.R.
37 s.178.609, or (c) is subject to the recommendations of the United
38 Nations on the transport of dangerous goods.

39

40 14. (New section) a. A small producer shall be exempt from the
41 provisions of this act.

42 b. The department may, as part of the rules and regulations
43 adopted pursuant to section 17 of this act, establish additional
44 exemptions for producers that do not exceed a minimum market
45 share of packaging products sold in or into the State.

46

47 15. (New section) a. There is established in the Department of
48 Environmental Protection an Office of Plastics and Packaging

1 Management. The office shall oversee the administration and
2 enforcement of this act, P.L.2020, c.117 (C.13:1E-99.126 et al.),
3 P.L.2021, c.391 (C.13:1E-99.135 et seq.), and any other law dealing
4 with pollution from plastic and other packaging, and the deleterious
5 environmental effects of the manufacture thereof, as determined by
6 the commissioner.

7 b. (1) The office shall include an Inspector General, who shall
8 have at least five years of experience in the enforcement of civil
9 environmental laws or criminal law. The Inspector General shall be
10 appointed by the commissioner, shall receive such salary as shall be
11 provided by law, and shall devote their entire time and attention to
12 the duties of the office. The Inspector General may be removed
13 from office by the commissioner, for cause, upon notice and an
14 opportunity to be heard.

15 (2) The Inspector General shall be entitled to call upon the
16 assistance and services of any county prosecutor, law enforcement
17 officer in the State, and any State, county, or local government
18 official or employee for the purpose of carrying out the powers,
19 functions and duties set forth in this subsection.

20 (3) The Inspector General, in consultation with the Director of
21 the Division of Criminal Justice in the Department of Law and
22 Public Safety, shall:

23 (a) establish a liaison and continuing communication regarding
24 the enforcement of laws under the purview of the Office of Plastics
25 and Packaging Management between the Department of
26 Environmental Protection, the Department of Law and Public
27 Safety, and such county and local governments as may be necessary
28 to coordinate activities, share information, and provide any
29 assistance necessary in overseeing enforcement of such
30 environmental laws;

31 (b) formulate and evaluate proposals for legislative,
32 administrative, and judicial initiatives to strengthen the enforcement
33 of laws under the purview of the Office of Plastics and Packaging
34 Management; and

35 (c) in connection with the enforcement of laws under the purview
36 of the Office of Plastics and Packaging Management, act as the
37 liaison for the Executive Branch of government with agencies
38 involved in the enforcement of violations of environmental laws
39 outside of the Executive Branch, including federal agencies.

40 c. No later than September 1 of each year, the commissioner
41 shall provide an annual report to the Governor and, pursuant to
42 section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature
43 describing the activities of the Office of Plastics and Packaging
44 management for the preceding 12 months, including, but not limited
45 to, the number of enforcement action taken and the aggregate
46 amount of money collected in penalties.

- 1 16. Section 8 of P.L.1970, c.39 (C.13:1E-8) is amended to read
2 as follows:
- 3 8. The Advisory Council on Solid Waste Management is
4 empowered to:
- 5 a. Request from the commissioner such information concerning
6 the Statewide solid waste management plan or district solid waste
7 management plans as it may deem necessary;
- 8 b. Consider any matter relating to the improvement of the
9 Statewide solid waste management plan or district solid waste
10 management plans, and advise the commissioner thereon;
- 11 c. **【From time to time submit】 Submit, at least every five years,**
12 **and more frequently if deemed in the public interest by the council,**
13 to the commissioner any recommendations which it deems
14 necessary for the improvement of the Statewide solid waste
15 management plan or district solid waste management plans;
- 16 d. **【From time to time submit】 Submit, at least every five years,**
17 **and more frequently if deemed in the public interest by the council,**
18 to the commissioner recommendations of any statutory and
19 regulatory changes deemed necessary to implement the
20 comprehensive State regulated medical waste management plan
21 prepared by the Department of Environmental Protection and the
22 Department of Health pursuant to section 13 of P.L.1989, c.34
23 (C.13:1E-48.13);
- 24 e. **【From time to time submit】 Submit, at least every five years,**
25 **and more frequently if deemed in the public interest by the council,**
26 to the commissioner recommendations of any statutory and
27 regulatory changes deemed necessary to implement the State
28 Recycling Plan goals;
- 29 f. Study any regulations adopted by the department and the
30 Department of Health concerning the management of regulated
31 medical waste and make its recommendations for their
32 improvement to the commissioner;
- 33 g. Study and investigate the state of the art and the technical
34 capabilities and limitations of regulations concerning solid waste
35 collection, disposal or recycling activities and report its findings
36 and recommendations thereon to the commissioner;
- 37 h. Study and investigate the need for programs for the long-
38 range technical support of solid waste programs and solid waste
39 management plans, and report its findings and recommendations
40 thereon to the commissioner;
- 41 i. Hold public hearings annually or more frequently in regard to
42 existing solid waste statutes and regulations and upon the state of
43 the art and technical capabilities and limitations in solid waste
44 collection, disposal or recycling activities and report its
45 recommendations thereon to the commissioner;
- 46 j. **Coordinate between local governments, recycling service**
47 **providers, producer responsibility organizations, other stakeholders,**

- 1 and the department to address issues associated with P.L. ,
2 c. (C.) (pending before the Legislature as this bill);
3 k. Act as a regulatory clearinghouse to aid participating
4 producers with compliance with P.L. , c. (C.) (pending
5 before the Legislature as this bill);
6 l. Assist the department in reviewing relevant data to assess
7 whether the recycling and source reduction requirements
8 established pursuant to section 5 of P.L. , c. (C.) (pending
9 before the Legislature as this bill) should be adjusted; and
10 m. Review and submit comments on packaging product
11 stewardship plans submitted to the council pursuant to section 6 of
12 P.L. , c. (C.) (pending before the Legislature as this bill).
13 (cf: P.L.1991, c.292, s.2)

14
15 17. The Commissioner of Environmental Protection shall adopt
16 rules and regulations, pursuant to the "Administrative Procedure
17 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), as may be necessary to
18 implement the provisions of this act.

19
20 18. This act shall take effect immediately.

21
22
23

STATEMENT

24
25 This committee substitute would require certain manufacturers
26 and distributors of products that utilize packaging to adopt and
27 implement plans to decrease the amount of packaging that is
28 disposed of as solid waste, and to pay an annual surcharge to the
29 State, the proceeds of which would be used to improve the State's
30 recycling system. The bill would also establish a new Office of
31 Plastics and Packaging Management in the Department of
32 Environmental Protection (DEP) to oversee the administration and
33 enforcement of laws dealing with pollution from plastic and other
34 packaging.

35 The bill would require the DEP, within one year after the bill's
36 enactment, to conduct a needs assessment of the State's solid waste
37 and recycling system. The needs assessment would be required to
38 include, among other things, an estimate of the costs of solid waste
39 and recycling infrastructure upgrades that are necessary for the
40 State to meet the recycling rate targets for packaging products
41 established in section 5 of the bill. The bill would require the DEP
42 to update the needs assessment every five years.

43 The bill would authorize producers covered under the bill to
44 collaborate in meeting the bill's requirements by forming producer
45 responsibility organizations (PROs). The DEP would be authorized
46 to approve up to 10 PROs. A PRO would be authorized to submit a
47 single packaging product stewardship plan that covers all producers
48 that are members of the PRO, and to take other actions to facilitate

1 producers' compliance with the bill's provisions. The bill would
2 also authorize producers to comply with the bill's provisions
3 individually, if they so choose.

4 Section 5 of the bill would establish certain requirements
5 concerning the sale and composition of packaging products. First,
6 it would require that, by 2032, the cumulative amount of single-use
7 packaging products sold, offered for sale, imported, or distributed in
8 or into the State be reduced by 25 percent in volume. At least 10
9 percent of this reduction would be required to be achieved by
10 shifting to reusable products or by eliminating plastic components.
11 Second, it would require that, by 2034, all packaging products be
12 either compostable or recyclable. Third, it would require that, by
13 2036, the recycling rate of packaging products in the State be at
14 least 65 percent.

15 The bill would require each PRO, no later than 5 years after the
16 bill's enactment, to develop and implement a packaging product
17 stewardship plan (plan). Each PRO would be required to first
18 submit a draft of its plan to the Advisory Council on Solid Waste
19 Management, established pursuant to the "Solid Waste Management
20 Act," P.L.1970, c.39 (C.13:1E-1 et seq.), for review and comment.
21 The PRO would then be required to submit its plan to the DEP for
22 approval. The bill would establish various requirements for the
23 content of a plan, including that it identify the strategies that will be
24 used by participating producers to reduce, through product design
25 modifications and program innovation, the amount of material that
26 is used for each packaging product and the amount of waste
27 resulting from the use of each packaging product. The plan would
28 also be required to include a detailed budget, which would be
29 required to be evaluated by an independent financial auditor to
30 ensure that it is sufficient to costs of implementing the plan. The
31 PRO would raise money to fund the implementation of the plan by
32 imposing fees on its members. The fees would be proportional to
33 the amount of packaging produced by the member, as well as the
34 environmental impact of the packaging.

35 The bill would also establish the "Packaging Reduction and
36 Recycling Fund" in the Department of the Treasury. Moneys in the
37 fund would be used to (1) fund efforts to improve the State's
38 recycling system, as identified in the Statewide needs assessment,
39 in the form of grants or low-interest loans issued by the DEP, or (2)
40 to administer and enforce the provisions of the bill. Each PRO (and
41 any producers not participating in a PRO) would be assessed an
42 annual surcharge by the Division of Taxation in the Treasury, and
43 the moneys from the surcharge would be placed in the "Packaging
44 Reduction and Recycling Fund." The total Statewide surcharge
45 would be the amount needed during the following fiscal year to
46 administer and enforce the bill's provisions and improve the State's
47 recycling system in order to meet the recycling rate and other
48 targets established by section 5 of the bill, as determined by the

1 Statewide needs assessment, up to a maximum of \$120 million.
2 The amount owed by each PRO or non-participating producer
3 would be a prorated share of this total amount.

4 PROs and non-participating producers would be required by the
5 bill to engage in public outreach, to address public questions and
6 concerns, and to provide consumers with educational and
7 informational materials related to the stewardship plan and the
8 services that are available thereunder. PROs and non-participating
9 producers would also be authorized to provide educational and
10 informational materials to retailers regarding the implementation of
11 the stewardship plan.

12 The bill would establish an Office of Plastics and Packaging
13 Management (office) in the DEP. The purpose of the office would
14 be to oversee the administration and enforcement of this bill,
15 P.L.2020, c.117 (C.13:1E-99.126 et al.), P.L.2021, c.391 (C.13:1E-
16 99.135 et seq.), and any other law dealing with pollution from
17 plastic and other packaging. The office would include an Inspector
18 General, who would, among other things, act as a liaison between
19 the DEP, the Department of Law and Public Safety, county
20 prosecutor's offices, and other local governments, regarding the
21 enforcement of laws under the purview of the office.

22 The bill would amend existing law to add several duties
23 regarding the implementation of the bill's provisions to the duties of
24 the Advisory Council on Solid Waste Management (council),
25 including a duty to review packaging product stewardship plans
26 submitted by PROs and non-participating producers. The bill
27 would also require certain existing recommendations from the
28 council to be provided to the DEP commissioner at least every five
29 years, rather than "from time to time," as stated in current law.

30 Finally, the bill would establish various civil and administrative
31 penalties for persons who violate the provisions of the bill, any
32 rules or regulations adopted pursuant thereto, any stewardship plan
33 approved thereunder, or any order issued by the DEP commissioner
34 in enforcing the bill.