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S.F. No. 3561 - Packaging Waste and Cost Reduction Act (As Amended by the A-3 Delete Everything Amendment)

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Section 1 [Short Title] provides that this act may be cited as the “Packaging Waste and Cost Reduction Act.”

Section 2 [Definitions] defines various terms used in the bill.

Section 3 [Establishment of Program] requires producers of packaging and paper products (“producers”) to implement and finance a statewide program to provide for the collection and management of used packaging and paper products (“covered materials”) through waste reduction, reuse, recycling, composting, and product redesign.

Section 4 [Registration of Producer Responsibility Organization]

Subd. 1 [Annual Registration] requires producers to appoint a producer responsibility organization (“PRO”) by January 1, 2025, and annually thereafter, and requires the PRO to register with the commissioner of the Pollution Control Agency (“commissioner”) by submitting certain materials. Requires the creation of a coordinating body if more than one PRO registers with the commissioner and requires that all approved product stewardship plans be integrated into a single plan.

Subd. 2 [Registration Fee] requires a PRO to submit an annual fee to the Pollution Control Agency (“PCA”) beginning in 2028 in an amount sufficient to cover the estimated costs of the PCA to administer the program during the following year, as determined by the commissioner.

Subd. 3 [Initial PRO Registration; Implementation Fee] prohibits the registration of more than one PRO before the expiration of the first stewardship plan and provides a process for

selecting that PRO where more than one attempts to register. Beginning in 2025, requires the initial PRO to annually pay the commissioner an implementation fee in an amount sufficient to cover the PCA's costs to develop the initial needs assessment and administer this act prior to approval of the initial stewardship plan.

Subd. 4 [Requirements for Additional PROs] establishes criteria for allowing more than one PRO to register.

Section 5 [Establishment of Producer Responsibility Advisory Board] establishes the Producer Responsibility Advisory Board ("board") to review programs operated by PROs and to advise the various parties on the implementation of this act.

Section 6 [Commissioner Responsibilities] establishes the responsibilities of the commissioner under the act, which include the duty to appoint the membership of the board and to provide it operating support, to complete needs assessments every five years, approve stewardship plans and amendments, provide a list of covered materials that are determined to be recyclable or compostable to PROs, to post various information on its website, to require annual financial audits of PROs, and to consider comments of the board.

Section 7 [Producer Responsibility Advisory Board Responsibilities] requires the board to consult with the commissioner and PROs on needs assessments, stewardship plans, and related matters.

Section 8 [Producer Responsibility Organization Responsibilities] requires PROs to register with the commissioner, submit stewardship plans to the commissioner every five years and to implement approved plans, to keep producers and service providers informed of various matters, collect producers fees, make various reports, ensure that producers operating under a stewardship plan comply with its requirements, expelling producers who fail to return to compliance, responding to comments received from the board, maintaining a website, and performing various related duties.

Section 9 [Producer Responsibilities] requires producers to implement the requirements of stewardship plans, to pay producer fees, and to:

- Register with a PRO by January 1, 2025.
- Be operating under an approved stewardship plan by January 1, 2029.
- Introduce only covered materials that are reusable, recyclable, collectable, or included in an alternative collection system after January 1, 2032.

Section 10 [Service Provider Responsibilities] requires service providers to collect and manage covered materials generated in this state pursuant to contractual agreements with PROs under approved stewardship plans.

Section 11 [Needs Assessment]

Subd. 1 [Needs Assessment Required] requires the commissioner to complete a needs assessment by December 31, 2026, and every five years thereafter.

Subd. 2 [Input from Interested Parties] requires the commissioner to consult with the board, political subdivisions, service providers, PROs, and other interested parties in

conducting a needs assessment. Requires the commissioner to contract with a third party to conduct the need assessment.

Subd. 3 [Content of Needs Assessment] requires a needs assessment to include certain information, including an evaluation of existing waste reduction, reuse, recycling, and composting efforts and resources; proposals for a range of performance targets to meet statewide requirements; options for third-party certification requirements; an evaluation of investments needed to increase waste reduction, reuse, recycling, and composting rates for covered materials; and related matters.

Subd. 4 [Needs Assessment as Baseline] provides that determinations of the extent to which statewide requirements or performance targets have been met must be based on the most recent needs assessment.

Subd. 5 [Participation Required] requires persons with information relevant to the completion of a needs assessment to provide that information to the commissioner upon request. Facilitates proceeding under a nondisclosure agreement where necessary.

Section 12 [Stewardship Plan]

Subd. 1 [Plan Required] requires a PRO to submit a plan to the commissioner by March 1, 2028, and every five years thereafter, that describes the proposed operation by the PRO of programs to fulfill the requirements of this act and that incorporates the findings of the most recent needs assessment.

Subd. 2 [Advisory Board Review] requires a PRO to submit draft stewardship plans to the advisory board for review before submission to the commissioner.

Subd. 3 [Content of Plan] requires a stewardship plan to include certain information, including performance targets, a description of collection methods, a list of any third party certifications that will be obtained, a budget and identification of funding needs, producer fees, an infrastructure investment plan, an explanation of how the plan will be paid for by producers, a description of activities to be undertaken during the next five years, reimbursement formulas, terms and conditions of service agreements, and related information.

Subd. 4 [Plan Amendment and Approval] requires the commissioner to review draft stewardship plans and amendments within 120 days of receipt and requires posting of the draft plan or amendment on the agency's website for at least 45 days to allow public comment. Allows a PRO 60 days to revise rejected plans, or to provide the commissioner with any additional requested information and requires the commissioner to review this information in 60 days. Allows the commissioner to modify the draft plan or amendment after two unsuccessful submissions.

Subd. 5 [Performance Targets] requires PROs to include performance targets in stewardship plans.

Subd. 6 [Measurement of Performance Targets] establishes methods for measuring whether performance targets have been met.

Subd. 7 [Statewide Requirements] makes PROs responsible for achieving certain statewide requirements by 2033, 2038, and subsequent years, related to the percentage of covered materials sold into the state that must be recycled or composted, that must be reused, that must be source reduced, and that must contain postconsumer recycled content.

Section 13 [Recyclable or Compostable Covered Materials Lists] requires the commissioner to complete by March 1, 2027, and every three years thereafter, a list of covered materials determined to be recyclable or compostable statewide.

Section 14 [Producer Fees] requires PROS to collect producer fees from producers and establishes requirements for determining the amount of those fees and adjusting for overcollections.

Section 15 [Service Provider Agreements] requires service agreements between PROs and service providers, which must establish reimbursement rates, strong labor standards, require achievement of performance standards, prohibit service providers from charging a fee for services provided under an agreement, and meet other requirements.

Section 16 [Reporting] requires a PRO to annually report to the commissioner beginning July 1, 2031, about its operations during the previous calendar year. The report must include certain enumerated information. Requires additional reporting when a PRO fails to meet a performance target included in a stewardship plan.

Requires the commissioner to report to the appropriate legislative committees and to the governor on the operation of the act every five years, beginning on October 15, 2034.

Section 17 [PRO Websites] requires a PRO to maintain a website that must include certain enumerated information.

Section 18 [Anticompetitive Conduct] authorizes a PRO to engage in anticompetitive conduct where necessary to meet its obligations under the act and provides immunity to PROs for antitrust, restraint of trade, or unfair trade practices.

Section 19 [Rulemaking] authorizes the commissioner to adopt rules to implement the act and exempts the rulemaking from the 18-month requirement of section 14.125.

Section 20 [Providing Information] requires a person to provide the commissioner with information necessary to implement this act upon request.

Section 21 [Deposit Return System] states that the legislature intends to harmonize this act with any bottle deposit return system legislation enacted by the legislature in the future.

Section 22 [Enforcement] requires the commissioner to enforce the act using existing authority and allows revocation of registration of a producer or a PRO found to have violated this act. Imposes civil penalties of up to \$100,000 per day for violations of this act.

Sections 23 and 24 [Studies] require the commissioner to conduct a study of workplace conditions and equity in the recycling, composting, and reuse facilities in this state and a study to identify the contribution of covered products to litter and water pollution in Minnesota.