

1.1 **Senator Hawj from the Committee on Environment, Climate, and Legacy, to which**
1.2 **was re-referred**

1.3 **S.F. No. 3561:** A bill for an act relating to solid waste; establishing Packaging Waste
1.4 and Cost Reduction Act; authorizing rulemaking; proposing coding for new law in Minnesota
1.5 Statutes, chapter 115A.

1.6 Reports the same back with the recommendation that the bill be amended as follows:

1.7 Page 3, line 4, delete "environmental"

1.8 Page 3, line 5, after "covered material" insert "on human health and the environment"

1.9 Page 3, line 33, delete everything after the period and insert a semicolon

1.10 Page 4, delete lines 1 and 2 and insert:

1.11 "(8) are packaging for products regulated or by the United States Environmental
1.12 Protection Agency under the Federal Insecticide, Fungicide, and Rodenticide Act, United
1.13 States Code, title 7, section 136 et seq.;

1.14 (9) are packaging used to contain liquefied petroleum gas and are designed to be refilled;
1.15 or"

1.16 Page 4, line 3, delete "(8)" and insert "(10)"

1.17 Page 7, line 7, delete "or"

1.18 Page 7, line 8, delete the period and insert "; or"

1.19 Page 7, after line 8, insert:

1.20 "(4) a mill that uses any virgin wood fiber in the products it produces."

1.21 Page 7, line 16, delete "managed through recycling" and insert "recycled"

1.22 Page 8, line 29, after the second comma, insert "recovers,"

1.23 Page 9, line 21, before the period, insert "AND SERVICE PROVIDERS"

1.24 Page 9, line 22, delete "January 1, 2025, and annually thereafter," and insert "July 1,
1.25 2025, and each January 1 thereafter,"

1.26 Page 9, line 23, delete "and the" and insert ". The producer responsibility"

1.27 Page 9, line 24, after "by" insert "July 1, 2026, and each January 1 thereafter by"

1.28 Page 10, delete subdivision 3 and insert:

1.29 "Subd. 3. Initial producer responsibility organization registration; implementation
1.30 fee. (a) By January 1, 2025, producers must appoint a producer responsibility organization.

2.1 The producer responsibility organization must register with the commissioner by submitting
2.2 the following:

2.3 (1) contact information for a person responsible for implementing an approved
2.4 stewardship plan;

2.5 (2) a list of current member producers and their written agreements confirming producers
2.6 will operate under an approved stewardship plan administered by the producer responsibility
2.7 organization;

2.8 (3) a plan for recruiting additional member producers and executing written agreements
2.9 confirming producers will operate under an approved stewardship plan administered by the
2.10 producer responsibility organization;

2.11 (4) a list of current board members and the executive director if different than the person
2.12 responsible for implementing approved stewardship plans; and

2.13 (5) documentation demonstrating adequate financial responsibility and financial controls
2.14 to ensure proper management of funds and payment of the annual fee required under
2.15 subdivision 2.

2.16 (b) Notwithstanding the other provisions of this section, the commissioner may not allow
2.17 registration of more than one producer responsibility organization under this section before
2.18 the first stewardship plan approved by the commissioner expires. If more than one producer
2.19 responsibility organization applies to register under this section before the first stewardship
2.20 plan is approved by the commissioner, the commissioner must select the producer
2.21 responsibility organization that will represent producers until the first stewardship plan
2.22 expires and must return the registration fee paid by applicants who are not selected. When
2.23 selecting a producer responsibility organization, the commissioner must consider whether
2.24 the producer responsibility organization:

2.25 (1) has a governing board consisting of producers that represent a diversity of covered
2.26 materials introduced; and

2.27 (2) demonstrates adequate financial responsibility and financial controls to ensure proper
2.28 management of funds.

2.29 (c) By January 1, 2025, and annually until the first stewardship plan is approved, the
2.30 commissioner must provide written notice to the initial producer responsibility organization
2.31 appointed by producers of the commissioner's estimate of the cost of conducting the
2.32 preliminary needs assessment, initial needs assessment, and the commissioner's costs to
2.33 administer this act during the period prior to plan approval. The producer responsibility

3.1 organization must remit payment in full for these costs to the commissioner within 45 days
3.2 of receipt of this notice. The producer responsibility organization may charge each member
3.3 producer to cover the cost of its implementation fee according to each producer's unit-,
3.4 weight-, volume-, or sales-based market share or by another method it determines to be an
3.5 equitable determination of each producer's payment obligation. "

3.6 Page 10, line 6, after "(5)" insert "documentation demonstrating adequate financial
3.7 responsibility and financial controls to ensure proper management of funds and"

3.8 Page 10, line 10, delete "of service contracts among service"

3.9 Page 10, line 11, delete everything before the period

3.10 Page 10, line 19, delete "2028" and insert "2026"

3.11 Page 11, line 22, before "The" insert "After the first stewardship plan approved by the
3.12 commissioner expires,"

3.13 Page 11, after line 28, insert:

3.14 "Subd. 5. **Registration of service providers.** (a) By January 1, 2027, and annually
3.15 thereafter, a service provider seeking reimbursement for services provided under an approved
3.16 stewardship plan according to section 115A.1451 may elect to register with the commissioner
3.17 by submitting the following information:

3.18 (1) contact information for a person representing the service provider; and

3.19 (2) address of the service provider.

3.20 (b) A service provider may register at any time."

3.21 Page 11, line 32, delete "programs" and insert "activities"

3.22 Page 12, line 22, before the semicolon, insert ", with at least one member representing
3.23 a political subdivision outside the metropolitan area"

3.24 Page 14, line 7, after "complete" insert "a preliminary needs assessment by December
3.25 31, 2025, and"

3.26 Page 14, delete lines 11 to 13 and insert:

3.27 "(5) provide lists established according to the requirements of section 115A.1453 to all
3.28 producer responsibility organizations by March 1, 2027;

3.29 (6) establish or approve requirements according to section 115A.1451, subdivision 7;"

3.30 Page 14, line 14, delete "(6)" and insert "(7)"

- 4.1 Page 14, after line 17, insert:
- 4.2 "(ii) a list of registered service providers;"
- 4.3 Page 14, line 18, delete "assessment" and insert "assessments"
- 4.4 Page 14, line 22, delete everything after "recent" and insert "lists established according
- 4.5 to"
- 4.6 Page 14, line 23, delete everything before "section"
- 4.7 Page 14, after line 23, insert:
- 4.8 "(vi) the list of exempt materials and covered materials exempt from performance targets
- 4.9 and statewide requirements as approved in the stewardship plan;"
- 4.10 Page 14, line 26, delete "(ii), (iii), (iv), and (vii)" and insert "(iii), (iv), (v) and (ix)"
- 4.11 Page 14, line 29, delete "(7)" and insert "(8)"
- 4.12 Page 15, delete lines 1 and 2 and insert:
- 4.13 "(9) require each producer responsibility organization to secure an independent auditor
- 4.14 to perform an annual financial audit of program operations and approve the selection of
- 4.15 each auditor; and"
- 4.16 Page 15, line 3, delete "(9)" and insert "(10)"
- 4.17 Page 15, line 9, delete "assessment" and insert "assessments"
- 4.18 Page 15, line 22, delete "2028" and insert "2027"
- 4.19 Page 15, line 26, delete everything after the second "the" and insert "lists established
- 4.20 according to section 115A.1453"
- 4.21 Page 15, line 27, delete everything before "to"
- 4.22 Page 16, line 16, delete everything after the semicolon
- 4.23 Page 16, line 17, delete the period and insert a semicolon
- 4.24 Page 16, after line 17, insert:
- 4.25 "(14) reimburse service providers in a timely manner and according to reimbursement
- 4.26 rates approved in a stewardship plan as established according to section 115A.1451; and
- 4.27 (15) comply with all other applicable requirements of this act."
- 4.28 Page 16, delete lines 28 to 31
- 4.29 Page 17, delete lines 1 to 7 and insert:

5.1 "(1) reusable and capable of being managed through a reuse system that meets the reuse
5.2 rate and return rate required under section 115A.1451, subdivision 7;

5.3 (2) capable of refill and supported by a refill system;

5.4 (3) included on the list established under section 115A.1453, subdivision 1; or

5.5 (4) included on the list established under section 115A.1453, subdivision 2.

5.6 (d) A producer responsibility organization may petition the commissioner for a two-year
5.7 extension to comply with the requirements of paragraph (c). The commissioner may approve
5.8 the extension if the petition demonstrates that the market or technical issues prevent a
5.9 covered material from being considered reusable or included in the lists established under
5.10 section 115A.1453. The producer responsibility organization may petition the commissioner
5.11 for additional extensions in annual increments until January 1, 2040, if the producer
5.12 responsibility organization demonstrates that market or technical issues persist."

5.13 Page 17, line 9, after "operates" insert a semicolon

5.14 Page 17, delete line 10

5.15 Page 17, line 11, delete the period and insert "; and"

5.16 Page 17, after line 11, insert:

5.17 "(3) comply with all other applicable requirements of this act."

5.18 Page 17, line 16, delete "and" and insert "or"

5.19 Page 17, after line 17, insert:

5.20 "(2) register with the commissioner and submit invoices to the producer responsibility
5.21 organization for reimbursement for services rendered;

5.22 (3) meet performance standards established in an approved stewardship plan under
5.23 section 115A.1451;"

5.24 Page 17, line 18, delete "provide" and insert "ensure" and delete everything after the
5.25 semicolon

5.26 Page 17, line 21, delete the period and insert "; and"

5.27 Page 17, after line 21, insert:

5.28 "(6) comply with all other applicable requirements of this act."

5.29 Page 17, line 22, delete "ASSESSMENT" and insert "ASSESSMENTS"

6.1 Page 17, line 23, delete "assessment" and insert "assessments" and before "By" insert
6.2 "(a) By December 31, 2025, and every five years thereafter, the commissioner must complete
6.3 a preliminary needs assessment according to this section. (b)"

6.4 Page 17, line 25, delete everything after the period and insert "The commissioner may
6.5 adjust what is required to be included in a specific needs assessment to inform the next
6.6 stewardship plan."

6.7 Page 17, delete lines 26 and 27

6.8 Page 18, after line 8, insert:

6.9 "Subd. 3. **Content of preliminary needs assessment.** A preliminary needs assessment
6.10 must be completed for a preceding period of no less than 12 months and no more than 36
6.11 months, that includes:

6.12 (1) tons of collected covered materials;

6.13 (2) recycling and composting program characteristics, including a description of
6.14 single-stream and dual-stream recycling systems used in the state and prevalence of use,
6.15 average frequency of collection of covered materials for recycling and composting, types
6.16 of collection containers used, and commonly accepted materials for recycling and
6.17 composting;

6.18 (3) total number and types of single-family and multi-family households and residential
6.19 properties receiving recycling and composting collection services;

6.20 (4) processing capacity at recycling facilities, including total tons processed and number
6.21 of bales created, the range of material composition and bales produced, and current
6.22 technologies utilized;

6.23 (5) size and number of depot, container, or drop-off locations;

6.24 (6) size and number of transfer stations and transfer locations;

6.25 (7) average term length of residential recycling and composting collection contracts
6.26 issued by political subdivisions and an assessment of contract cost structures;

6.27 (8) average recycling facility processing fees charged to collectors delivering covered
6.28 materials for recycling;

6.29 (9) available markets in the state for covered materials and the capacity of those markets;
6.30 and

7.1 (10) covered materials sales by volume, weight, and material types introduced by
7.2 producers."

7.3 Page 19, line 27, delete "and" and insert a comma and after "quality" insert ", level of
7.4 service, and convenience for collection of covered materials included on lists established
7.5 in section 115A.1453"

7.6 Page 20, line 6, delete the second "and"

7.7 Page 20, after line 6, insert:

7.8 "(ii) an estimate of total annual collection and processing service costs based on registered
7.9 service provider costs; and"

7.10 Page 20, line 7, delete "(ii)" and insert "(iii)"

7.11 Page 20, line 16, before "reuse" insert "waste reduction,"

7.12 Page 20, line 19, delete "the same or comparable" and insert "an equivalent" and after
7.13 the second "of" insert "service and"

7.14 Page 20, after line 22, insert:

7.15 "(11) a recommended methodology for applying criteria and formulas to establish
7.16 reimbursement rates as described in section 115A.1455;"

7.17 Page 21, line 11, before the semicolon, insert ", including assessing each covered
7.18 material's generation of hazardous waste, generation of greenhouse gases, environmental
7.19 justice impacts, public health impacts, and other impacts"

7.20 Page 21, line 18, before "A", insert "(a)"

7.21 Page 21, line 31, before the period, insert ", including assessing each covered material's
7.22 generation of hazardous waste, generation of greenhouse gases, environmental justice
7.23 impacts, public health impacts, and other impacts"

7.24 Page 21, after line 31, insert:

7.25 "(b) The commissioner, any employee of the agency, or any agent thereof, when
7.26 authorized by the commissioner, may enter upon any property, public or private, for the
7.27 purpose of obtaining information necessary for completing the evaluation in subdivision 3,
7.28 clause (2)."

7.29 Page 22, line 2, delete "2028" and insert "2027"

7.30 Page 22, delete lines 18 to 27 and insert:

8.1 "(2) a description of the anticipated method of collection, how reimbursements will
8.2 support a level of convenience for collection, service convenience metrics, processing
8.3 infrastructure and management methods to be used for each covered materials type, and
8.4 how these will meet the statewide requirements established in subdivision 7 for covered
8.5 materials:

8.6 (i) included on the list established in section 115A.1453, subdivision 1;

8.7 (ii) included on the list established in section 115A.1453, subdivision 2;

8.8 (iii) that are reusable covered materials managed through a reuse system; and

8.9 (iv) that are capable of refill and managed through a system of waste reduction.

8.10 (3) proposals for exemptions from performance targets and statewide requirements for
8.11 covered materials that cannot be waste reduced or made reusable, recyclable, or compostable
8.12 due to federal or state health and safety requirements, identifying the specific federal or
8.13 state requirements and their impact on the covered materials;

8.14 (4) a plan for how the producer responsibility organization will measure recycling, waste
8.15 reduction, reuse, composting, and inclusion of postconsumer recycled content, according
8.16 to subdivision 6 and by covered materials type as applicable;"

8.17 Page 22, delete lines 29 to 32 and insert:

8.18 "(6) a budget identifying funding needs for each of the five calendar years covered by
8.19 the plan, producer fees, a description of the process used to calculate the fees, and an
8.20 explanation of how the fees meet the requirements of section 115A.1454;"

8.21 Page 23, line 1, delete "(ii)" and insert "(7)" and delete "set"

8.22 Page 23, delete lines 5 to 9 and insert:

8.23 "(8) an explanation of how the program will be paid for by the producer responsibility
8.24 organization through fees from producers, without any new or additional consumer-facing
8.25 fee to members of the public, businesses, service providers, the state or any political
8.26 subdivisions, or any other person who is not a producer, unless the fee is:

8.27 (i) a deposit made in connection with a product's refill, reuse, or recycling that can be
8.28 redeemed by a consumer; or

8.29 (ii) a charge for service by a service provider, regardless of whether registered;"

8.30 Page 23, line 10, delete "(8)" and insert "(9)"

9.1 Page 23, line 13, before the semicolon, insert ", including assessing each covered
9.2 material's generation of hazardous waste, generation of greenhouse gases, environmental
9.3 justice impacts, public health impacts, and other impacts"

9.4 Page 23, line 16, after "(iii)" insert "provide funding to"

9.5 Page 23, line 22, delete "a comparable" and insert "an equivalent"

9.6 Page 23, line 23, before the semicolon, insert "according to section 115A.1455"

9.7 Page 23, line 24, before "ensure" insert "monitor to"

9.8 Page 23, delete lines 25 to 33 and insert:

9.9 "(10) a description of how the producer responsibility organization will promote the
9.10 opportunity for all service providers to register with the commissioner and to submit for
9.11 reimbursement with the producer responsibility organization;

9.12 (11) a description of how the program shall reimburse service providers under an
9.13 approved stewardship plan, including but not limited to:

9.14 (i) the use of differentiated rates developed according to the requirements and factors
9.15 established under section 115A.1455, subdivision 4;

9.16 (ii) clear and reasonable timelines for reimbursement, with a frequency of no less than
9.17 monthly unless agreed to by a service provider and a producer responsibility organization;
9.18 and

9.19 (iii) a process to resolve disputes that arise between the producer responsibility
9.20 organization and a service provider regarding the determination and payment of
9.21 reimbursements;

9.22 (12) performance standards for service providers that are reimbursed under an approved
9.23 stewardship plan, including but not limited to the following, as applicable to the service
9.24 provided:

9.25 (ii) requirements that service providers must accept all covered materials on the lists
9.26 established by the commissioner under section 115A.1453; and

9.27 (iii) labor standards and safety practices, including but not limited to safety programs,
9.28 health benefits, and living wages;

9.29 (13) a description of how the producer responsibility organization will treat and protect
9.30 nonpublic data submitted by service providers;"

9.31 Page 24, delete lines 1 to 28

- 10.1 Page 25 line 2, after "materials" insert ", including verification by suppliers"
- 10.2 Page 26, line 29, delete "equitable" and insert "reasonable"
- 10.3 Page 28, line 1, delete "weight of"
- 10.4 Page 28, line 10, delete "assessment" and insert "assessments"
- 10.5 Page 29, line 3, delete everything after "2027"
- 10.6 Page 29, line 4, delete everything before the comma
- 10.7 Page 30, delete subdivision 5
- 10.8 Page 32, delete lines 25 to 30 and insert "performance standards requirements established
10.9 under an approved stewardship plan."
- 10.10 Page 33, line 4, before the comma, insert ", subdivision 1"
- 10.11 Page 33, line 9, delete everything after "opportunities"
- 10.12 Page 33, line 10, delete "subdivisions"
- 10.13 Page 33, line 11, after the first "and" insert "holders of service"
- 10.14 Page 33, delete lines 13 to 17 and insert:
- 10.15 "(b) No producer or producer responsibility organization may own or partially own
10.16 infrastructure that is used to fulfill obligations under this act except in the following
10.17 circumstances:
- 10.18 (1) a producer may hold an ownership stake in infrastructure used to fulfill obligations
10.19 under this act so long as the stake was held prior to enactment of this act and said ownership
10.20 stake is fully disclosed by the producer to the producer responsibility organization; or
- 10.21 (2) if, after a bidding process described in paragraph (a), no service provider bids on the
10.22 contract, the producer responsibility organization may make infrastructure investments
10.23 identified under an approved stewardship plan to implement the requirements in this act."
- 10.24 Page 33, delete subdivision 4 and insert:
- 10.25 "Subd. 4. **Reimbursement rates.** (a) An approved stewardship plan must provide
10.26 reimbursement rates for services, collection, transportation, and management of covered
10.27 materials, exclusive of exempt materials, and incorporate relevant cost information identified
10.28 by the initial needs assessment. Reimbursement rates shall be established equivalent to 50
10.29 percent of the cost per ton by July 1, 2027, 75 percent of the cost per ton by July 1, 2028,

11.1 and 90 percent of the cost per ton by July 1, 2029, and each year thereafter and varied per
11.2 ton, as follows:

11.3 (1) a fixed amount for each ton of covered material collected by a service provider that
11.4 reflects conditions that affect collection, recycling, and composting costs in the region or
11.5 jurisdiction in which the services are provided, including but not limited to:

11.6 (i) the number and size of households;

11.7 (ii) population density;

11.8 (iii) collections methods employed;

11.9 (iv) public education efforts;

11.10 (v) distance to consolidation or transfer facilities; to reuse, recycling, or composting
11.11 facilities; or to responsible markets;

11.12 (vi) other factors that may contribute to regional or jurisdictional cost differences;

11.13 (vii) proportion of covered compostable materials within all source-separated compostable
11.14 materials collected or managed through composting; and

11.15 (viii) the general quality of materials recycled or composted by service providers;

11.16 (2) a fixed amount for each ton of covered material recycled or composted by a service
11.17 provider in the prior calendar year based upon:

11.18 (i) the average costs associated with the transportation and processing from a central
11.19 location within a political subdivision, of collected covered material from the political
11.20 subdivision to a recycling or composting facility;

11.21 (ii) the processing of and removal of contamination from covered material by a recycling
11.22 or composting facility;

11.23 (iii) the recycling or composting of covered materials in the state or in another jurisdiction
11.24 less the average fair market value for that covered material based on the market indices for
11.25 the region, updated monthly;

11.26 (iv) costs associated with the management of contaminated materials removed from
11.27 collected covered material; and

11.28 (v) the proportion of covered compostable materials within all source-separated
11.29 compostable materials collected or managed through composting;

11.30 (3) an additional fixed amount, in excess of the rate provided under clause (2), for each
11.31 material type per ton for covered materials that are not included on the lists established

12.1 according to section 115A.1453, subdivision 1, that are recycled or composted by a service
12.2 provider in the prior calendar year less the average fair market value for that covered material
12.3 based on the market indices for the region, updated monthly;

12.4 (4) a fixed amount for mixed recycling tons are managed through a process that includes
12.5 percentages of covered materials included on the lists established according to section
12.6 115A.1453, subdivision 1, and additional covered materials. The per ton fixed amount shall
12.7 be prorated for the values in clause (2), items (i) and (ii), based upon the most recent waste
12.8 characterization for mixed recycling ton averages;

12.9 (5) a fixed amount, based on population served, for administrative costs of service
12.10 providers, including education, public awareness campaigns, and outreach program costs
12.11 as applicable; and

12.12 (6) a fixed amount for the cost of managing covered materials capable of refill or reusable
12.13 covered materials and for the costs associated with collection, cleaning, sanitation,
12.14 distribution, and management of contamination.

12.15 (b) A service provider may retain all revenue from the sale of covered materials. Nothing
12.16 in this act restricts a service provider from charging a fee for collection or processing of
12.17 covered materials to the extent that reimbursement from a producer responsibility
12.18 organization does not cover all costs of services, including operating profits and returns on
12.19 investments required by a service provider to provide sustainability of the services."

12.20 Page 34, line 15, after the period, insert "Any political subdivision that is also a service
12.21 provider is eligible to be registered with the commissioner and reimbursed per the rates and
12.22 schedule approved in subdivision 4."

12.23 Page 34, line 17, delete "performance targets" and insert "statewide requirements"

12.24 Page 35, line 14, before the semicolon, insert "that meets the requirements of the Financial
12.25 Accounting Standards Board's Accounting Standards Update 2016-14, Not-for-Profit Entities
12.26 (Topic 958), as amended"

12.27 Page 36, line 3, delete "formula and"

12.28 Page 36, line 5, delete "list" and insert "lists"

12.29 Page 36, line 20, delete "performance targets" and insert "statewide requirements" and
12.30 after the period, insert "If a revision to the statewide performance targets is required and
12.31 completed by the commissioner, the producer responsibility organization may revise the
12.32 performance targets at the same time."

- 13.1
- Page 37, delete lines 12 to 14 and insert:
- 13.2
- "(5) information on how to manage materials included in lists established under section
- 13.3
- 115A.1453;
- 13.4
- (6) the list of exempt materials as defined in this act and covered materials exempt from
- 13.5
- performance targets and statewide requirements as approved in the stewardship plan;"
- 13.6
- Renumber the items, clauses, and subdivisions in sequence
- 13.7
- And when so amended the bill do pass and be re-referred to the Committee on Finance.
- 13.8
- Amendments adopted. Report adopted.

13.9



13.10

(Committee Chair)

13.11

April 11, 2024.....

13.12

(Date of Committee recommendation)