

Senate Bill 437

Sponsored by Senator PROZANSKI (at the request of Jim Hoover, Waste Recovery Systems)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Allows removal of recyclable material from solid waste disposal receptacles under certain circumstances.

A BILL FOR AN ACT

1
2 Relating to recyclable materials; amending ORS 459.015, 459A.010 and 459A.080.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 459.015 is amended to read:

5 459.015. (1) The Legislative Assembly finds and declares that:

6 (a) The planning, development and operation of recycling programs is a matter of statewide
7 concern.

8 (b) The opportunity to recycle should be provided to every person in Oregon.

9 (c) There is a shortage of appropriate sites for landfills in Oregon.

10 (d) It is in the best interests of the people of Oregon to extend the useful life of solid waste
11 disposal sites by encouraging waste prevention and the recycling and reuse of materials, and by
12 requiring solid waste to undergo volume reduction through recycling and reuse measures to the
13 maximum extent feasible before disposal. Implementation of waste prevention and recycling and re-
14 use measures will not only increase the useful life of solid waste disposal sites, but also decrease
15 the potential public health and safety impacts associated with the operation of disposal sites.

16 (e) There are limits to Oregon's natural resources and the capacity of the state's environment
17 to absorb the impacts of increasing consumption of resources, increasing waste generation and in-
18 creasing solid waste disposal.

19 (f) It is in the best interests of the people of Oregon to conserve resources and energy by de-
20 veloping an economy that encourages waste prevention and recycling.

21 (g) The State of Oregon should make it a priority to support efforts that assist each watershed
22 in meeting its recovery goal so the statewide recovery goal may be achieved.

23 (2) In the interest of the public health, safety and welfare and in order to conserve energy and
24 natural resources, it is the policy of the State of Oregon to establish a comprehensive statewide
25 program for solid waste management which will:

26 (a) After consideration of technical and economic feasibility, establish priority in methods of
27 managing solid waste in Oregon as follows:

28 (A) First, to reduce the amount of solid waste generated;

29 (B) Second, to reuse material for the purpose for which it was originally intended;

30 (C) Third, to recycle material that cannot be reused;

31 (D) Fourth, to compost material that cannot be reused or recycled;

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (E) Fifth, to recover energy from solid waste that cannot be reused, recycled or composted so
2 long as the energy recovery facility preserves the quality of air, water and land resources; and

3 (F) Sixth, to dispose of solid waste that cannot be reused, recycled, composted or from which
4 energy cannot be recovered by landfilling or other method approved by the Department of Envi-
5 ronmental Quality.

6 (b) Clearly express the Legislative Assembly's previous delegation of authority to cities and
7 counties for collection service franchising and regulation and the extension of that authority under
8 the provisions of this section and ORS 459.125 and 459A.005 to 459A.085.

9 (c) Retain primary responsibility for management of adequate solid waste management programs
10 with cities, counties or metropolitan service districts, reserving to the state those functions neces-
11 sary to ensure effective programs, cooperation among cities, counties or metropolitan service dis-
12 tricts and coordination of solid waste management programs throughout the state.

13 (d) Promote, encourage and develop markets first for reusable material and then for recyclable
14 material.

15 (e) Promote research, surveys and demonstration projects to encourage material or energy re-
16 covery.

17 (f) Promote research, surveys and demonstration projects to aid in developing more sanitary,
18 efficient and economical methods of solid waste management.

19 (g) Provide advisory technical assistance and planning assistance to affected persons, in the
20 planning, development and implementation of solid waste management programs.

21 (h) Develop, in coordination with federal, state and local agencies and other affected persons,
22 long-range plans including regional approaches to promote reuse, to provide land reclamation in
23 sparsely populated areas, and in urban areas necessary disposal facilities.

24 (i) Provide for the adoption and enforcement of recycling rates and standards as well as per-
25 formance standards necessary for safe, economic and proper solid waste management.

26 (j) Provide authority for counties to establish a coordinated program for solid waste manage-
27 ment, to regulate solid waste management and to license or franchise the providing of service in the
28 field of solid waste management.

29 (k) Encourage utilization of the capabilities and expertise of private industry.

30 (L) Promote means of preventing or reducing at the source, materials which otherwise would
31 constitute solid waste.

32 (m) Promote application of material or energy recovery systems which preserve and enhance the
33 quality of air, water and land resources.

34 **(n) Promote source separation of recyclable material from solid waste.**

35 **SECTION 2.** ORS 459A.010 is amended to read:

36 459A.010. (1) It is the goal of the State of Oregon that:

37 (a) For the calendar year 2005, the amount of recovery from the general solid waste stream shall
38 be at least 45 percent;

39 (b) For the calendar year 2009, the amount of recovery from the general solid waste stream shall
40 be at least 50 percent;

41 (c) For the calendar year 2005 and subsequent years, that there be no annual increase in per
42 capita municipal solid waste generation; and

43 (d) For the calendar year 2009 and subsequent years, that there be no annual increase in total
44 municipal solid waste generation.

45 (2) In addition to the requirements of ORS 459A.005, the "opportunity to recycle" shall include

1 the requirements of subsection (3) of this section using the following program elements:

2 (a) Provision of at least one durable recycling container to each residential service customer.

3 (b) On-route collection at least once each week of source separated recyclable material to resi-
4 dential customers, provided on the same day that solid waste is collected from each customer.

5 (c) An expanded education and promotion program conducted to carry out the policy set forth
6 in ORS 459.015, to inform solid waste generators of the manner and benefits of reducing, reusing,
7 recycling and composting material and to promote use of recycling services. The city, county or
8 metropolitan service district responsible for providing an opportunity to recycle under ORS 459A.005
9 and this section shall provide the education and promotion program in either of the following two
10 ways:

11 (A) Preparing and implementing an education and promotion plan that includes actions to ef-
12 fectively reach solid waste generators and all new and existing collection service customers, as
13 necessary to fulfill the intent of this paragraph. The plan shall be submitted to the Department of
14 Environmental Quality the first year that the plan is in effect. Thereafter, the wasteshed shall sub-
15 mit a summary of activities in the plan to the Department of Environmental Quality at the same
16 time the county submits the periodic report required under ORS 459A.050 (1)(a). The summary shall
17 cover at least the time period until the next periodic report is due to the department.

18 (B) Implementing all of the following:

19 (i) Provision of recycling notification and education packets to all new residential, commercial
20 and institutional collection service customers that include at a minimum the materials collected, the
21 schedule for collection, the way to prepare materials for collection and the reasons persons should
22 separate their material for recycling. The educational and promotional materials provided to com-
23 mercial collection customers should be targeted to meet the needs of various types of businesses and
24 should include reasons to recycle, including economic benefits, common barriers to recycling and
25 solutions, additional resources for commercial generators of solid waste and other information de-
26 signed to assist and encourage recycling efforts. The educational and promotional materials provided
27 to commercial collection customers shall encourage each commercial collection customer to have a
28 goal to achieve 50 percent recovery from its solid waste stream by the year 2009.

29 (ii) Provision of recycling information in a variety of formats and materials at least four times
30 a calendar year to collection service customers that includes at a minimum the materials collected
31 and the schedule for collection.

32 (iii) Provision at least annually to all residential, commercial and institutional collection service
33 customers, of the information under sub-subparagraph (i) of this subparagraph.

34 (iv) Targeting of community and media events to promote recycling.

35 (d) Collection of at least four principal recyclable materials or the number of materials required
36 to be collected under the residential on-route collection program, whichever is less, from each
37 multifamily dwelling complex having five or more units. The multifamily collection program shall
38 include:

39 (A) Promotion and education directed to the residents of the multifamily dwelling units; **or**

40 (B) **Professional source separation by a third party.**

41 (e) An effective residential yard debris collection and composting program that includes the
42 promotion of home composting of yard debris, and that also includes either:

43 (A) Monthly or more frequent on-route collection of yard debris from residences for production
44 of compost or other marketable products; **or**

45 (B) A system of yard debris collection depots conveniently located and open to the public at

1 least once a week.

2 (f) A commercial recycling program that includes:

3 (A) Weekly, or on a more appropriate regular schedule, onsite collection of source separated
4 principal recyclable materials from, at a minimum, commercial solid waste generators employing 10
5 or more persons and occupying 1,000 square feet or more in a single location.

6 (B) An education and promotion program conducted to inform all commercial generators of solid
7 waste of the manner and benefits of the commercial recycling program that provides effective pro-
8 motion of the program to the generators.

9 (C) In addition to the requirements of subparagraphs (A) and (B) of this paragraph, a commercial
10 recycling program may also consist of other elements including but not limited to waste assessments
11 and recycling recognition programs. A wasteshed is encouraged to involve local business organiza-
12 tions in publicly recognizing outstanding recycling efforts by commercial generators of solid waste.
13 The recognition may include awards designed to provide additional incentives to increase recycling
14 efforts.

15 (D) Each commercial generator of solid waste shall strive to achieve 50 percent recovery from
16 its solid waste stream by the year 2009.

17 (g) Expanded depots for recycling of at least all principal recyclable materials and provisions
18 for promotion and education to maximize the use of the depots. The depots shall have regular and
19 convenient hours and shall be open on the weekend days and, when feasible, shall collect additional
20 recyclable materials.

21 (h) Solid waste residential collection rates that encourage waste reduction, reuse and recycling
22 through reduced rates for smaller containers, including at least one rate for a container that is 21
23 gallons or less in size. Based on the average weight of solid waste disposed per container for con-
24 tainers of different sizes, the rate on a per pound disposed basis shall not decrease with increasing
25 size of containers, nor shall the rates per container service be less with additional containers ser-
26 viced.

27 (i) A collection and composting system for food, paper that is not recyclable because of con-
28 tamination and other compostable waste from commercial and institutional entities that generate
29 large amounts of such wastes.

30 (3)(a) Each city with a population of at least 4,000 but not more than 10,000 that is not within
31 a metropolitan service district and any county responsible for the area between the city limits and
32 the urban growth boundary of such city shall implement one of the following:

33 (A) The program elements set forth in subsection (2)(a), (b) and (c) of this section;

34 (B) A program that includes at least three elements set forth in subsection (2) of this section;

35 or

36 (C) An alternative method of achieving recovery rates that complies with rules of the Environ-
37 mental Quality Commission.

38 (b) Each city that is within a metropolitan service district or that has a population of more than
39 10,000 and any county responsible for the area within a metropolitan service district or the area
40 between the city limits and the urban growth boundary of such city shall implement one of the fol-
41 lowing:

42 (A) Program elements set forth under subsection (2)(a), (b) and (c) of this section and one addi-
43 tional element set forth under subsection (2) of this section;

44 (B) A program that includes at least five elements set forth under subsection (2) of this section;

45 or

1 (C) An alternative method of achieving recovery rates that complies with rules of the Environ-
2 mental Quality Commission.

3 (4)(a) Recovery rates shall be determined by dividing the total weight of material recovered by
4 the sum of the total weight of the material recovered plus the total weight of solid waste disposed
5 that was generated in each watershed. It is the policy of the State of Oregon that recovery of ma-
6 terial shall be consistent with the priority of solid waste management in ORS 459.015 (2).

7 (b) Each watershed implementing a waste prevention program shall receive a two percent credit
8 on the watershed's recovery rate. A waste prevention program shall include:

9 (A) A watershed-wide program to provide general educational materials to residents about waste
10 prevention and examples of things residents can do to prevent generation of waste; and

11 (B) Two of the following:

12 (i) Reduce the watershed annual per capita waste generation by two percent each year;

13 (ii) Conduct a waste prevention media promotion campaign targeted at residential generators;

14 (iii) Expand the education program in primary and secondary schools to include waste pre-
15 vention and reuse;

16 (iv) Household hazardous waste prevention education program;

17 (v) Local governments will conduct waste prevention assessments of their operations, or provide
18 waste prevention assessments for businesses and institutions and document any waste prevention
19 measures implemented;

20 (vi) Conduct a material specific waste prevention campaign for businesses throughout the
21 watershed;

22 (vii) Implement a Resource Efficiency Model City program;

23 (viii) Conduct a material-specific waste prevention education campaign that focuses on a toxic
24 or energy-intensive material;

25 (ix) Local governments will implement programs to buy recycled-content products for their op-
26 erations, consistent with procurement guidelines issued by the United States Environmental Pro-
27 tection Agency; or

28 (x) Local governments will implement programs for new construction and remodeling of local
29 government buildings that incorporate recycled-content materials, energy conservation features,
30 water conservation and stormwater management features and other elements to increase the re-
31 source efficiency and lower the environmental impact of these buildings.

32 (c) Each watershed implementing a reuse program shall receive a two percent credit on the
33 watershed's recovery rate. A reuse program shall include:

34 (A) A promotion and education campaign on the benefits and opportunities for reuse available
35 to the public in the watershed; and

36 (B) Two of the following:

37 (i) Operate construction and demolition debris salvage programs with depots;

38 (ii) Promote reuse programs offered by local resale businesses, thrift stores and equipment ven-
39 dors, such as computer and photocopier refurbishers, to the public and businesses;

40 (iii) Identify and promote local businesses that will take back white goods for refurbishing and
41 resale to the public;

42 (iv) Develop and promote use of waste exchange programs for the public and private sectors;

43 (v) Site accommodation for recovery of reusable material at transfer stations and landfills; or

44 (vi) Sidewalk pickup or community fair program in cities over 4,000 population in the watershed.

45 (d) Each watershed implementing a residential composting program shall receive a two percent

1 credit on the wasteshed's recovery rate. A residential composting program shall include:

2 (A) Promotion of the residential composting program through public information and demon-
3 stration sites or sites; and

4 (B) Two of the following:

5 (i) A program to encourage leaving grass clippings generated by lawn mowing on-site rather
6 than bagging the clippings for disposal or composting;

7 (ii) A composting program for local schools;

8 (iii) An increase in availability of compost bins for residents; or

9 (iv) Another program increasing a household's ability to manage yard trimmings or food wastes.

10 (e) A wasteshed may receive, upon application to the Department of Environmental Quality, a
11 recovery credit greater than two percent for a residential composting program. To receive the re-
12 covery credit under this paragraph, the wasteshed must provide quantitatively verifiable documen-
13 tation of residential composting tonnage to the department. The documentation must show that more
14 than two percent of the wasteshed's generated tonnage of solid waste is diverted from the
15 wastestream by residential composting.

16 (f)(A) If there is not a viable market for recycling a material under paragraph (a) of this sub-
17 section, the composting or burning of the material for energy recovery may be included in the re-
18 covery rate for the wasteshed.

19 (B) If the material is burned for energy recovery and then included in the recovery rate for
20 Clackamas, Multnomah or Washington Counties in aggregate or for Benton, Lane, Linn, Marion,
21 Polk or Yamhill County wastesheds, the same material, when burned as part of mixed solid waste,
22 may be included in the recovery rate for a wasteshed that burns mixed solid waste for energy re-
23 covery. The amount of the material within the mixed solid waste that may be included in the re-
24 covery rate for energy recovery shall be determined by a waste composition study performed by the
25 wasteshed at least every four years.

26 (C) Mixtures of materials that are composted or burned for energy recovery shall not be in-
27 cluded in the recovery rate if more than half of the mixed materials by weight could have been re-
28 cycled if properly source separated.

29 (D) In its annual report to the department, the county or metropolitan service district shall state
30 how much composting or energy recovery under this paragraph is included as recovery and state
31 the basis for the determination that there was not a viable market for recycling the material.

32 (E) As used in this paragraph, "viable market" means a place within a wasteshed that will pay
33 for the material or accept the material free of charge or a place outside a wasteshed that will pay
34 a price for the material that, at minimum, covers the cost of transportation of the material.

35 (g) Recovery rates shall not include:

36 (A) Industrial and manufacturing wastes such as boxboard clippings and metal trim that are
37 recycled before becoming part of a product that has entered the wholesale or retail market.

38 (B) Metal demolition debris in which arrangements are made to sell or give the material to
39 processors before demolition such that it does not enter the solid waste stream.

40 (C) Discarded vehicles or parts of vehicles that do not routinely enter the solid waste stream.

41 (D) Material recovered for composting or energy recovery from mixed solid waste, except as
42 provided in paragraph (f) of this subsection.

43 (h) "Solid waste disposed" shall mean the total weight of solid waste disposed other than the
44 following:

45 (A) Sewage sludge or septic tank and cesspool pumpings;

1 (B) Waste disposed of at an industrial waste disposal site;

2 (C) Industrial waste, ash, inert rock, dirt, plaster, asphalt and similar material if delivered to a
3 municipal solid waste disposal site or demolition disposal site and if a record is kept of such deliv-
4 eries and submitted as part of the annual report submitted under ORS 459A.050;

5 (D) Waste received at an ash monofill from an energy recovery facility; and

6 (E) Solid waste not generated within this state.

7 (i) The statewide recovery rate shall include the two percent credit for reuse programs under
8 paragraph (c) of this subsection and the credit for residential composting under paragraphs (d) and
9 (e) of this subsection, beginning with the statewide recovery rate calculated for the calendar year
10 2001.

11 (5)(a) Each local government that franchises or licenses the collection of solid waste and es-
12 tablishes the rates to be charged for collection service shall either:

13 (A) Include in those rates all net costs incurred by the franchisee or licensee for providing the
14 “opportunity to recycle” under ORS 459A.005 and for implementing the requirements of subsection
15 (3) of this section; or

16 (B) Fund implementation of the “opportunity to recycle” under ORS 459A.005 or the require-
17 ments of subsection (3) of this section through an alternative source of funding including but not
18 limited to disposal fees.

19 (b) As used in this subsection, “net costs” includes but is not limited to the reasonable costs for
20 collecting, handling, processing, storing, transporting and delivering recyclable material to market
21 and for providing any required education and promotion or data collection services adjusted by a
22 factor to account for proceeds from the sale of recyclable material.

23 (6)(a) Clackamas, Multnomah and Washington counties, in aggregate, shall achieve a recovery
24 rate of 62 percent for the calendar year 2005 and 64 percent for the calendar year 2009.

25 (b) The wastesheds shall achieve the following recovery rates for the calendar year 2005:

26 (A) Baker County, 25 percent;

27 (B) Benton County, 45 percent;

28 (C) Clatsop County, 25 percent;

29 (D) Columbia County, 28 percent;

30 (E) Coos County, 30 percent;

31 (F) Crook County, 20 percent;

32 (G) Curry County, 30 percent;

33 (H) Deschutes County, 32 percent;

34 (I) Douglas County, 35 percent;

35 (J) Gilliam County, 20 percent;

36 (K) Grant County, 19 percent;

37 (L) Harney County, 30 percent;

38 (M) Hood River County, 25 percent;

39 (N) Jackson County, 40 percent;

40 (O) Jefferson County, 25 percent;

41 (P) Josephine County, 38 percent;

42 (Q) Klamath County, 15 percent;

43 (R) Lake County, 8 percent;

44 (S) Lane County, 45 percent;

45 (T) Lincoln County, 19 percent;

- 1 (U) Linn County, 40 percent;
2 (V) Malheur County, 21 percent;
3 (W) Marion County, 37 percent;
4 (X) City of Milton-Freewater, 22 percent;
5 (Y) Morrow County, 18 percent;
6 (Z) Polk County, 30 percent;
7 (AA) Sherman County, 20 percent;
8 (BB) Tillamook County, 30 percent;
9 (CC) Umatilla County, 20 percent;
10 (DD) Union County, 25 percent;
11 (EE) Wallowa County, 20 percent;
12 (FF) Wasco County, 35 percent;
13 (GG) Wheeler County, 20 percent; and
14 (HH) Yamhill County, 39 percent.
- 15 (c) The wastesheds shall achieve the following recovery rates for the calendar year 2009:
- 16 (A) Baker County, 25 percent;
17 (B) Benton County, 50 percent;
18 (C) Clatsop County, 25 percent;
19 (D) Columbia County, 32 percent;
20 (E) Coos County, 30 percent;
21 (F) Crook County, 20 percent;
22 (G) Curry County, 30 percent;
23 (H) Deschutes County, 45 percent;
24 (I) Douglas County, 40 percent;
25 (J) Gilliam County, 20 percent;
26 (K) Grant County, 19 percent;
27 (L) Harney County, 40 percent;
28 (M) Hood River County, 25 percent;
29 (N) Jackson County, 40 percent;
30 (O) Jefferson County, 25 percent;
31 (P) Josephine County, 38 percent;
32 (Q) Klamath County, 20 percent;
33 (R) Lake County, 10 percent;
34 (S) Lane County, 54 percent;
35 (T) Lincoln County, 20 percent;
36 (U) Linn County, 40 percent;
37 (V) Malheur County, 22 percent;
38 (W) Marion County, 54 percent;
39 (X) City of Milton-Freewater, 25 percent;
40 (Y) Morrow County, 20 percent;
41 (Z) Polk County, 35 percent;
42 (AA) Sherman County, 20 percent;
43 (BB) Tillamook County, 30 percent;
44 (CC) Umatilla County, 20 percent;
45 (DD) Union County, 25 percent;

- 1 (EE) Wallowa County, 20 percent;
- 2 (FF) Wasco County, 35 percent;
- 3 (GG) Wheeler County, 20 percent; and
- 4 (HH) Yamhill County, 45 percent.

5 (d) Each wasteshed shall prepare an individualized plan that identifies policies or programs
 6 specific to the wasteshed's local conditions to achieve the required recovery goals. The plan shall
 7 be available to the department upon the department's request by December 31, 2001. The plan shall
 8 be updated by December 31, 2006, and updated again by December 31, 2010. Clackamas, Multnomah
 9 and Washington Counties, in aggregate, may meet this requirement through the programs under ORS
 10 459.340, 459.345, 459.350 and 459A.050.

11 (e) If a wasteshed does not achieve its 2005 or 2009 waste recovery goal, the wasteshed shall
 12 conduct a technical review of existing policies or programs and determine revisions to meet the
 13 recovery goal. The department shall, upon the request of the wasteshed, assist in the technical re-
 14 view. The wasteshed may request, and may assist the department in conducting, a technical review
 15 to determine whether the wasteshed goal is valid.

16 (7) In calculating the recovery rates set forth in subsection (6) of this section, commercial, in-
 17 dustrial and demolition scrap metal, vehicles, major equipment and home or industrial appliances
 18 that are handled or processed for use in manufacturing new products and that do not routinely enter
 19 the solid waste stream through land disposal facilities, transfer stations, recycling depots or on-route
 20 collection programs shall not be counted as material recovery or recycling. The department shall
 21 annually conduct an industry survey to determine the contribution of post-consumer residential
 22 scrap metal, including home appliances, to recycling and recovery levels in a manner which prevents
 23 double counting of material recovered. Information collected under the provisions of this section,
 24 as it relates specifically to private sector customer lists or specific amounts and types of materials
 25 collected or marketed, shall be maintained as confidential by the department and exempt from dis-
 26 closure under ORS 192.410 to 192.505. The department may use and disclose such information in
 27 aggregated form.

28 **SECTION 3.** ORS 459A.080 is amended to read:

29 459A.080. (1) A person may not:

30 [(1)] (a) Without the permission of the owner or generator of recyclable material, take
 31 recyclable material set out to be collected by a person authorized by a city or county to provide
 32 collection service for that recyclable material.

33 [(2)] (b) Remove any recyclable material from a container, box, collection vehicle, depot or other
 34 receptacle for the accumulation or storage of recyclable material without permission of the owner
 35 of the receptacle.

36 [(3)] (c) Mix source separated recyclable material with solid waste in any vehicle, box, container
 37 or receptacle used in solid waste collection or disposal.

38 (2) **Notwithstanding subsection (1) of this section, for the purpose of separating**
 39 **recyclable material from solid waste, a person may remove recyclable material from a con-**
 40 **tainer, box or other receptacle used in solid waste collection or disposal without permission**
 41 **of the owner of the receptacle, provided that the person makes the material available for**
 42 **collection only by a person authorized by a city or county to provide collection service for**
 43 **that recyclable material.**