

House Bill 3060

Sponsored by COMMITTEE ON ENVIRONMENT AND WATER

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**.

Makes legislative findings regarding certain products. Requires Department of Environmental Quality to collaborate with certain parties to implement statewide system for rechargeable batteries and lighting that contains mercury. Specifies selection process for additional products to be covered in statewide system. Specifies provisions for adoption of rules to implement product stewardship programs for rechargeable batteries and lighting that contains mercury. Requires producers of rechargeable batteries and lighting that contains mercury to establish product stewardship programs and product stewardship plans and to submit annual written report to department. Requires producers to establish annual performance goals.

Allows Environmental Quality Commission to adopt rules to implement provisions related to rechargeable batteries and lighting that contains mercury.

Allows Department of Environmental Quality to establish schedule of fees to be paid by producers. Establishes Product Stewardship Fund. Continuously appropriates moneys in fund to department to pay costs of implementing provisions related to rechargeable batteries and lighting that contains mercury.

Imposes civil penalty for disposal of, or knowingly accepting for disposal, rechargeable batteries or lighting that contains mercury. Imposes civil penalties for other violations of provisions related to rechargeable batteries and lighting that contains mercury.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to product stewardship; creating new provisions; amending ORS 459.247 and 459.995; appropriating money; and declaring an emergency.

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

FINDINGS

SECTION 1. The Legislative Assembly finds that:

(1) It is in the best interest of this state for producers of products sold in Oregon to take responsibility for reducing the environmental and health impacts of a product over its life cycle, from design to management after the end of a product's useful life;

(2) It is in the best interest of this state to institute a product stewardship system to encourage the design and manufacture of products that are more resource-efficient, more recyclable and less toxic and that result in less greenhouse gas emissions; and

(3) It is in the best interest of this state for producers to finance and manage programs within a statewide product stewardship system that serves urban and rural areas in Oregon and provides free, convenient opportunities for the collection, transportation, recovery and safe management of discarded products.

SECTION 2. As used in sections 2 to 15 of this 2009 Act:

(1) "Brand" means a name, symbol, word or mark that identifies a product and attributes the product to the owner of the brand as the producer.

(2) "Covered entity" means any person with a discarded product covered by sections 2 to

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 15 of this 2009 Act.

2 (3) “Discarded product” means a product no longer wanted by its owner that is discarded
3 or is intended to be discarded.

4 (4) “Disposition rate” means quantitative measures that establish on an annual basis the
5 percentage of discarded products that are recycled, reused or properly disposed of, including
6 being recovered for energy, relative to the total amount collected or total amount collected
7 per capita in a product stewardship program.

8 (5) “Environmentally sound management practices” means policies as defined by rules
9 adopted pursuant to section 3 of this 2009 Act that are implemented by a producer or a
10 stewardship organization to ensure compliance with applicable laws and that address issues
11 such as adequate record keeping, tracking and documenting the fate of materials within this
12 state and beyond, on-site operations, security of facilities and materials, worker health and
13 safety requirements, environmental protection, closure plans, adequate insurance and fi-
14 nancial assurances.

15 (6) “Historical product” means any product that is not currently marketed or sold by the
16 producer.

17 (7) “Lighting that contains mercury” means lamps, bulbs, tubes, or other devices that
18 contain mercury and that provide functional illumination in homes and businesses and out-
19 doors

20 (8) “Orphan product” means a product that lacks a brand, for which the producer is no
21 longer in business and has no successor in interest or for which the Department of Envi-
22 ronmental Quality cannot identify a producer.

23 (9) “Performance goal” means a metric established by a producer or the Department of
24 Environmental Quality to measure on an annual basis the performance of a product
25 stewardship program in addressing recycling, reuse, safe disposal, environmental impacts or
26 health impacts related to a product.

27 (10) “Person” means the United States, this state, a public or private corporation, a local
28 government unit, a public agency, an individual, a partnership, an association, a firm, a
29 trust, an estate or another legal entity.

30 (11) “Producer” means a person:

31 (a) Who manufactures a product and who sells, offers for sale or distributes that product
32 in Oregon under the manufacturer’s own name or brand;

33 (b) If paragraph (a) of this subsection does not apply, who is not the manufacturer of the
34 product but is the owner or licensee of a trademark or brand under which a product is sold
35 or distributed in Oregon, whether or not the trademark is registered; or

36 (c) If paragraphs (a) and (b) of this subsection do not apply, who imports the product into
37 Oregon for sale or distribution.

38 (12) “Product” means:

39 (a) A single item or group of similar items specified in section 6 of this 2009 Act; and

40 (b) Historical products and orphan products of the same type as the items described in
41 paragraph (a) of this subsection.

42 (13) “Product goal” means any change in the design and manufacture of a product that
43 reduces or has the potential to reduce environmental or health impacts.

44 (14) “Product stewardship plan” means a statewide plan that describes a program for the
45 collection, transportation, recycling, reuse and disposal of discarded products and any related

1 performance goals and product goals and that is developed and provided for by a producer
2 or group of producers.

3 (15) "Product stewardship program" means a statewide program financed and managed
4 by a producer or group of producers that is based on an approved product stewardship plan
5 and that addresses the environmental or health impacts of a product over the entire life
6 cycle of that product.

7 (16) "Rechargeable battery" means a small, nonvehicular, rechargeable nickel-cadmium,
8 nickel metal hydride, lithium-ion or sealed lead-acid battery, a battery pack containing these
9 types of batteries, or any other such dry-cell battery capable of being recharged.

10 (17)(a) "Recycling" means any process by which discarded products, components and by-
11 products are transformed into new, usable or marketable materials in a manner in which the
12 original products may lose their identity.

13 (b) "Recycling" does not include energy recovery or energy generation by means of
14 combusting discarded products, components and by-products with or without other waste
15 products.

16 (18) "Retailer" means any person that offers new products for sale at retail through any
17 means, including but not limited to remote offerings such as sales outlets, catalogs or the
18 Internet.

19 (19) "Reuse" means the return of a product into the economic stream for use in the same
20 kind of application as originally intended, without a change in the product's identity.

21 (20) "Sell" or "sale" means any transfer of title for consideration, including but not lim-
22 ited to remote sales conducted through sales outlets, catalogs or the Internet or any similar
23 electronic means, but excluding lease arrangements.

24 (21) "Statewide product stewardship system" means the statewide system of product
25 stewardship programs established and managed by producers or stewardship organizations
26 that are overseen by the Department of Environmental Quality.

27 (22) "Stewardship organization" means a corporation, nonprofit or other legal entity ap-
28 pointed by a producer or group of producers to act as an agent on behalf of the producer to
29 administer a product stewardship program.

30
31 **RULES**

32
33 **SECTION 3.** The Environmental Quality Commission may adopt rules as necessary to
34 implement sections 2 to 15 of this 2009 Act.

35
36 **PRODUCT STEWARDSHIP**

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38 **SECTION 4.** (1) The Department of Environmental Quality shall develop and implement
39 a statewide product stewardship system for:

40 (a) Rechargeable batteries; and

41 (b) Lighting that contains mercury.

42 (2) In developing and implementing the statewide product stewardship system under this
43 section, the department shall collaborate to the extent practicable with the federal govern-
44 ment, other states, state agencies, local governments, producers, stewardship organizations,
45 the retail industry, nonprofits, the solid waste industry, environmental groups and covered

1 entities.

2 (3) To the extent practicable, the department shall consult and coordinate with other
 3 states to achieve consistency in the development and implementation of the statewide prod-
 4 uct stewardship system.

5
 6 **PRODUCT SELECTION PROCESS**
 7

8 **SECTION 5.** (1) Every two years, after consultation with the advisory committee estab-
 9 lished pursuant to subsection (8) of this section, the Department of Environmental Quality
 10 may identify a list of potential products that may be appropriate for a product stewardship
 11 program. The department must hold at least one public meeting where interested persons
 12 can provide comment regarding the listing of potential products.

13 (2) Upon review of any public comment and any relevant information and after consul-
 14 tation with the advisory committee, the Department of Environmental Quality may select
 15 from the list developed pursuant to subsection (1) of this section products for further eval-
 16 uation. The department may consider whether a product’s packaging should be included in
 17 this evaluation. These products shall be evaluated based on the factors in subsection (3) of
 18 this section.

19 (3) In evaluating a product, the Department of Environmental Quality shall consider the
 20 following factors:

21 (a) Potential to reduce waste, toxicity, greenhouse gas emissions or other environmental
 22 or health impacts;

23 (b) Potential to encourage product design or manufacture that reduces environmental
 24 or health impacts;

25 (c) Current or potential contribution of the product to the weight, volume or toxicity of
 26 the solid waste stream;

27 (d) Public demand or need for improved recycling, reuse or disposal opportunities;

28 (e) Producer ability to manage the product through a product stewardship program;

29 (f) Fiscal impacts to local governments, producers, retailers, consumers and other af-
 30 fected parties of using a product stewardship program to address the management of a
 31 product after the end of the product’s useful life; and

32 (g) Any other consideration relevant to the management of a product under a product
 33 stewardship program.

34 (4) Based on the evaluation provided in subsections (2) and (3) of this section and after
 35 consultation with the advisory committee, the Department of Environmental Quality may
 36 recommend products to the Environmental Quality Commission. Prior to submitting recom-
 37 mendations to the commission, the department must hold at least one public meeting and
 38 post recommendations on its website for 30 days to allow for public comments.

39 (5) Products to be managed under a product stewardship program as provided in sections
 40 2 to 15 of this 2009 Act must be approved by the Environmental Quality Commission and then
 41 included in a report to the Legislative Assembly as described in subsection (6) of this section.
 42 The commission may accept, reject or modify the products as recommended by the Depart-
 43 ment of Environmental Quality. The commission must determine that managing the product
 44 through a product stewardship program serves the public interest. The commission may not
 45 recommend more than two products in a two-year period unless it determines that:

1 (a) The threat to the environment or public health warrants the recommendation of ad-
2 ditional products; or

3 (b) The products are of a similar class or type.

4 (6) Approved recommendations from the Environmental Quality Commission must be
5 submitted in a report to the Legislative Assembly in the manner provided by ORS 192.245.
6 The report must include a description of the products, the basis for the product recommen-
7 dation and any other appropriate information.

8 (7) Only the products specified in section 6 of this 2009 Act may be managed under a
9 product stewardship program.

10 (8)(a) Prior to undertaking the process described in this section, the Department of En-
11 vironmental Quality shall appoint and convene a standing advisory committee to provide
12 technical information and advice regarding the identification, evaluation and recommen-
13 dation of products. The committee must have at least 11 members and, at a minimum, one
14 member must represent each of the following groups:

15 (A) Producers;

16 (B) Local governments;

17 (C) Environmental groups;

18 (D) The solid waste industry; and

19 (E) The retail industry.

20 (b) To encourage coordination with other states, the department may invite represen-
21 tatives from other states to participate in the committee proceedings as nonmembers.

22
23 **PRODUCTS**
24

25 **SECTION 6.** The following products are covered by the provisions of sections 2 to 15 of
26 this 2009 Act:

27 (1) Rechargeable batteries.

28 (2) Lighting that contains mercury.
29

30 **PRODUCT REGULATION**
31

32 **SECTION 7.** (1) The Department of Environmental Quality shall adopt product-specific
33 rules to address the implementation of product stewardship programs for the products
34 specified in section 6 of this 2009 Act.

35 (2)(a) Prior to adopting product-specific rules, the Department of Environmental Quality
36 shall appoint an advisory committee to advise on the development of product-specific rules.
37 The committee shall have at least nine members and, at a minimum, one member must
38 represent each of the following groups:

39 (A) Producers;

40 (B) Local governments;

41 (C) Environmental groups;

42 (D) The solid waste industry;

43 (E) The retail industry; and

44 (F) Consumers or covered entities.

45 (b) To encourage coordination with other states, the department may invite represen-

1 tatives from other states to participate in the committee proceedings as nonmembers.

2 (3) Any product-specific rules developed and adopted pursuant to this section shall ad-
3 dress the following:

4 (a) Definition of covered entities;

5 (b) Environmentally sound management practices;

6 (c) Performance goals and product goals as provided in section 13 of this 2009 Act;

7 (d) The disposal ban as provided in ORS 459.247;

8 (e) Implementation date for the product stewardship program;

9 (f) Department of Environmental Quality's administrative fees; and

10 (g) Any other requirement relevant to the management of a product under a product
11 stewardship program.

12
13 **PRODUCT STEWARDSHIP PROGRAMS**

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15 **SECTION 8.** (1) Producers of products specified in section 6 of this 2009 Act for which
16 rules are adopted pursuant to section 7 of this 2009 Act shall establish product stewardship
17 programs for the products. Every producer shall:

18 (a) Operate, either individually or collectively with other producers, a product
19 stewardship program; or

20 (b) Enter into an agreement with one or more stewardship organizations to operate, on
21 the producer's behalf, a product stewardship program.

22 (2) Product stewardship programs must be provided free of charge to covered entities
23 when a product is sold or when the discarded products are delivered or collected for reuse,
24 recycling or disposal throughout the calendar year. Product stewardship programs must ac-
25 cept any branded or unbranded product as designated by the Legislative Assembly. All dis-
26 carded products collected for a program must be reused or recycled unless the applicable
27 product-specific rule provides that such products must be properly disposed of. A program
28 must meet or exceed the requirements for the collection of products set forth in the product
29 stewardship plan required by section 9 of this 2009 Act.

30 (3) Producers must pay all administrative, operational and capital costs associated with
31 the product stewardship programs, including costs of collection, transportation, recycling,
32 reuse and disposal of the products and their components. Producers must provide adequate
33 insurance and financial assurances for operation of the product stewardship programs.

34 (4) Product stewardship programs must meet or exceed the environmentally sound
35 management practices provided in the applicable product-specific rules as well as any other
36 applicable federal, state or local requirements regarding the management of the collected
37 products.

38 (5) A producer may not sell or offer for sale in Oregon any product unless the product
39 or, where appropriate, the product package or container is labeled with a brand that is per-
40 manently affixed and readily visible and the brand is included in an approved product
41 stewardship plan.

42 (6) All product stewardship programs shall operate in accordance with:

43 (a) The product stewardship plan as approved by the Department of Environmental
44 Quality; and

45 (b) Sections 2 to 15 of this 2009 Act and any applicable rules adopted pursuant to sections

1 2 to 15 of this 2009 Act.

2 (7) Product stewardship programs shall include an education and outreach component to
3 promote the use of the program and to inform covered entities of available collection options.
4 This information must be provided to covered entities, retailers and other interested parties.

5
6 **PRODUCT STEWARDSHIP PLANS**

7
8 **SECTION 9.** (1) Producers must submit a product stewardship plan to the Department
9 of Environmental Quality that addresses the following:

10 (a) Information about participating producers, including but not limited to:

11 (A) Contact information for producers;

12 (B) Contact information for the individual or entity submitting the plan;

13 (C) A description of any stewardship organization that operates the product stewardship
14 program; and

15 (D) Producers' products and associated brands covered by the product stewardship pro-
16 gram and product stewardship plan.

17 (b) Information on performance goals and product goals, including but not limited to:

18 (A) A description of annual performance goals and, if applicable, product goals; and

19 (B) Compliance with annual performance goals and, if applicable, product goals.

20 (c) Collection system information, including but not limited to:

21 (A) How the product stewardship program will be available, convenient, accessible and
22 free of charge for all covered entities in urban and rural areas statewide; and

23 (B) How discarded products will be collected in all counties in the state and all cities with
24 populations of at least 10,000.

25 (d) Implementation of environmentally sound management practices for the collection,
26 transportation, recycling, reuse and disposal of discarded products.

27 (e) Management of collected products, including but not limited to:

28 (A) How the collected products will be recycled, reused or, where required by the
29 product-specific rules, properly disposed of; and

30 (B) How all residuals that cannot be recycled or reused will be properly managed.

31 (f) Financial information, including but not limited to:

32 (A) How the product stewardship program will be financed;

33 (B) The mechanism for securing and disbursing funds to cover administrative, opera-
34 tional and capital costs; and

35 (C) Demonstration of adequate insurance and financial assurances for collection, trans-
36 portation, recycling, reuse or disposal operations.

37 (g) Outreach and education to covered entities including, but not limited to:

38 (A) How to use and access the product stewardship program; and

39 (B) How this information will be provided to collectors, retailers and other interested
40 parties.

41 (h) Public and stakeholder consultation, including but not limited to:

42 (A) Opportunities for the public and other stakeholders to comment on the product
43 stewardship plan prior to submission; and

44 (B) Opportunities for the public and other stakeholders to comment on the implementa-
45 tion and operation of the product stewardship program.

1 (2) If the department determines that a proposed product stewardship plan complies with
2 sections 2 to 15 of this 2009 Act and any applicable rules and is in the public interest, the
3 department shall approve the product stewardship plan.

4 (3) All product stewardship plans submitted and approved by the department must be
5 available to the general public through the website of the producer or the stewardship or-
6 ganization.

7 (4) The department shall maintain a website listing of producers and brands covered by
8 approved product stewardship plans and product stewardship programs, updated by the first
9 day of each month.

10 **SECTION 10.** (1) All product stewardship plans must be submitted to the Department of
11 Environmental Quality no later than 120 days following the adoption of the applicable
12 product-specific rules, or no later than 120 days prior to the sale or offer for sale of a prod-
13 uct in Oregon.

14 (2) The department shall approve or reject the product stewardship plan within 60 days
15 of receiving the plan unless the department requests additional information regarding the
16 plan.

17 (3) If a product stewardship plan is rejected and the producer wishes to submit a revised
18 plan, the producer must do so within 60 days of the date of the letter of rejection.

19 (4) Product stewardship plans must be updated and submitted to the department for re-
20 view at least once every four years from the date on which the plan is first approved or more
21 frequently as needed to ensure compliance with this 2009 Act.

22 (5) If a producer joins an approved product stewardship plan, the producer must notify
23 the Department of Environmental Quality prior to selling or offering for sale any products
24 in Oregon.

25 **SECTION 11.** (1) As of the implementation date established by the applicable product-
26 specific rule, a producer, retailer or other person may not sell the product or offer the
27 product for sale to any person in this state unless the producer is participating in an ap-
28 proved product stewardship program.

29 (2) A retailer or other person complies with the requirements of this section if, on the
30 date the product is ordered from the producer or its agent, the website of the Department
31 of Environmental Quality lists the producer, along with the product brand, as operating or
32 participating in an approved product stewardship program.

33 (3) At the time of sale to a consumer, a producer, retailer or other person selling a
34 product or offering a product for sale must provide the consumer with information on where
35 and how to recycle or dispose of the product through a product stewardship program.

36 **SECTION 12.** (1) A producer must annually prepare and submit to the Department of
37 Environmental Quality a written report that describes how the product stewardship program
38 was implemented in accordance with sections 2 to 15 of this 2009 Act and any applicable
39 rules.

40 (2) The department may request that additional information be submitted in order to
41 verify any reported accomplishments under the program.

42
43 **PERFORMANCE GOALS**

44
45 **SECTION 13.** (1)(a) A producer shall establish annual performance goals for discarded

1 products collected in a product stewardship program. A producer shall establish reasonable
2 annual performance goals for the first four years of the program's operation, provided that
3 the goals include the following:

- 4 (A) Total amount collected or total amount collected per capita;
- 5 (B) Collection rate; and
- 6 (C) Disposition rate.

7 (b) The Department of Environmental Quality shall establish the appropriate metric to
8 use in measuring annual performance goals in the product-specific rule.

9 (2) Annual performance goals established by a producer for the first four years of the
10 operation of the product stewardship program are not enforceable. However, a producer
11 must establish, measure and report on the goal. By the fifth year of the operation of the
12 product stewardship program for a product, the Department of Environmental Quality shall
13 establish an enforceable annual performance goal. A producer must meet or exceed this goal.
14 Producers must continue to fully implement a product stewardship program even after an
15 enforceable annual performance goal is achieved.

16 (3) A producer may establish product goals for products covered by a product
17 stewardship program. These goals must be specific to the product and intended to achieve
18 changes that result in a reduction in environmental or health impacts. The Department of
19 Environmental Quality shall consider and make appropriate adjustments for any product goal
20 adopted and successfully implemented that affects the ability of a producer to meet an en-
21 forceable annual performance goal.

22 (4) Product goals are not enforceable. The Department of Environmental Quality may
23 provide incentives in the applicable product-specific rules to those producers who establish
24 and implement product goals.

25
26 **FEES**
27

28 **SECTION 14.** The Department of Environmental Quality may establish a schedule of fees
29 to be paid by producers. Fees may be established in amounts to recover, but not exceed,
30 costs incurred by the department in providing plan review, approval, program development,
31 oversight and compliance for the products for which a producer is responsible. Fees collected
32 by the department under this section shall be deposited in the State Treasury to the credit
33 of the Product Stewardship Fund established under section 15 of this 2009 Act.
34

35 **PRODUCT STEWARDSHIP FUND**
36

37 **SECTION 15.** The Product Stewardship Fund is established, separate and distinct from
38 the General Fund. Interest earned by the Product Stewardship Fund shall be credited to the
39 fund. Moneys in the fund are continuously appropriated to the Department of Environmental
40 Quality and may be used only to pay the costs of implementing sections 2 to 15 of this 2009
41 Act.
42

43 **DISPOSAL PROHIBITION**
44

45 **SECTION 16.** ORS 459.247, as amended by section 15, chapter 302, Oregon Laws 2007, is

1 amended to read:

2 459.247. (1) No person shall dispose of and no disposal site operator shall knowingly accept for
3 disposal the following types of solid waste at a solid waste disposal site:

- 4 (a) Discarded or abandoned vehicles;
- 5 (b) Discarded large home or industrial appliances;
- 6 (c) Used oil;
- 7 (d) Tires;
- 8 (e) Lead-acid batteries; *[or]*
- 9 (f) Covered electronic devices[.]; **or**

10 **(g) Products.**

11 (2) As used in this section:

12 (a) "Covered electronic device" has the meaning given that term in ORS 459A.305; *[and]*

13 **(b) "Product" has the meaning given that term in section 2 of this 2009 Act; and**

14 *[(b)]* (c) "Used oil" has the meaning given that term in ORS 459A.555.

15 (3) Nothing in this section shall prohibit a disposal site operator from accepting and storing, for
16 purposes of recycling or recovering, any of the types of solid waste listed in subsection (1) of this
17 section.

18 (4) The Environmental Quality Commission may postpone the prohibition under subsection (1)(f)
19 **or (g)** of this section in any area of this state where the commission determines there is an inade-
20 quate system for the collection, transportation and recycling of covered electronic devices **or pro-**
21 **ducts.**

22 (5)(a) Each disposal site operator shall establish and implement, in accordance with any permit
23 requirements established by the Department of Environmental Quality, a program reasonably de-
24 signed to prevent acceptance of covered electronic devices **or products** for disposal. If an operator
25 operates the disposal site in conformity with the program, the operator is presumed to have com-
26 plied with the provisions of this section that prohibit knowingly accepting covered electronic de-
27 vices **or products** for disposal.

28 (b) This section does not prevent the disposal site operator from accepting and storing, for
29 purposes of recycling, reusing or refurbishing, covered electronic devices **or products.**

30
31 **PENALTIES**

32
33 **SECTION 17.** ORS 459.995, as amended by section 17, chapter 302, Oregon Laws 2007, is
34 amended to read:

35 459.995. (1) Except as provided in subsection (2) of this section, in addition to any other penalty
36 provided by law:

37 (a) Any person who violates ORS 459.205, 459.270, 459.272, 459.386 to 459.405, 459.705 to 459.790,
38 459A.005 to 459A.620, 459A.310 to 459A.335, 459A.675 to 459A.685 or 646A.080 **or sections 2 to 15**
39 **of this 2009 Act**, or any rule or order of the Environmental Quality Commission pertaining to the
40 disposal, collection, storage or reuse or recycling of solid wastes, as defined by ORS 459.005, or any
41 rule or order pertaining to the disposal, storage or transportation of waste tires, as defined by ORS
42 459.705, or any rule or order pertaining to the sale of novelty items that contain encapsulated liquid
43 mercury, shall incur a civil penalty not to exceed \$10,000 a day for each day of the violation.

44 (b) Any person who violates the provisions of ORS 459.420 to 459.426 shall incur a civil penalty
45 not to exceed \$500 for each violation. Each battery that is disposed of improperly shall be a separate

1 violation. Each day an establishment fails to post the notice required under ORS 459.426 shall be a
 2 separate violation.

3 (c) For each day a city, county or metropolitan service district fails to provide the opportunity
 4 to recycle as required under ORS 459A.005, the city, county or metropolitan service district shall
 5 incur a civil penalty not to exceed \$500 for each violation.

6 (d) Any person who violates the provisions of ORS 459.247 (1)(f) **or (g)** shall incur a civil penalty
 7 not to exceed \$500 for each violation. Each covered electronic device **or each product, as defined**
 8 **in section 2 of this 2009 Act**, that is disposed of improperly shall be a separate violation.

9 (2) Any product manufacturer or package manufacturer who violates ORS 459A.650 to 459A.665
 10 or any rule adopted under ORS 459A.650 to 459A.665 shall incur a civil penalty not to exceed \$1,000
 11 per day for each day of the violation. A violation of ORS 459A.650 to 459A.665 shall not be subject
 12 to additional penalties under subsection (1) of this section.

13 (3) Any civil penalty authorized by subsection (1) or (2) of this section shall be imposed in the
 14 manner provided by ORS 468.135.

15
 16 **REPORT TO THE LEGISLATIVE ASSEMBLY**

17
 18 **SECTION 18. The Department of Environmental Quality shall submit a report regarding**
 19 **the status of the statewide product stewardship system described in section 4 of this 2009**
 20 **Act, including any recommendations for legislation, to the appropriate interim committee**
 21 **of the Legislative Assembly related to the environment and natural resources on or before**
 22 **November 1, 2014.**

23
 24 **MISCELLANEOUS**

25
 26 **SECTION 19. The unit captions used in this 2009 Act are provided only for the conven-**
 27 **ience of the reader and do not become part of the statutory law of this state or express any**
 28 **legislative intent in the enactment of this 2009 Act.**

29 **SECTION 20. The Department of Environmental Quality shall evaluate any federal law**
 30 **that establishes a national program to manage any products specified in section 6 of this 2009**
 31 **Act through a product stewardship approach. If the department determines that the federal**
 32 **law substantially meets or exceeds the requirements and intent of sections 2 to 15 of this**
 33 **2009 Act, the department shall include information on the federal law in a report, in the**
 34 **manner provided by ORS 192.245, to the session of the Legislative Assembly that next follows**
 35 **enactment of the federal law.**

36 **SECTION 21. Sections 2 to 15 of this 2009 Act do not supersede any authority under ORS**
 37 **chapter 459 or 459A for cities and counties to regulate the collection of solid waste.**

38 **SECTION 22. Except as provided in section 23 of this 2009 Act, sections 1 to 15, 18, 20 and**
 39 **21 of this 2009 Act and the amendments to ORS 459.247 and 459.995 by sections 16 and 17 of**
 40 **this 2009 Act become operative on July 1, 2011.**

41 **SECTION 23. The Environmental Quality Commission may adopt rules before the opera-**
 42 **tive date specified in section 22 of this 2009 Act or take any action before that date that is**
 43 **necessary to carry out the provisions of sections 1 to 15, 18, 20 and 21 of this 2009 Act and**
 44 **the amendments to ORS 459.247 and 459.995 by sections 16 and 17 of this 2009 Act.**

45 **SECTION 24. No later than January 1, 2012, the Department of Environmental Quality**

1 shall develop and implement the statewide product stewardship system described in section
2 4 of this 2009 Act.

3 SECTION 25. This 2009 Act being necessary for the immediate preservation of the public
4 peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect
5 on its passage.
6
