

# House Bill 3597

Sponsored by Representative GILLIAM; Representatives KRIEGER, WITT

## 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**.

Modifies policy regarding comprehensive statewide program for solid waste management. Modifies definition of "recycling" for provisions relating to solid waste management and certain reuse and recycling.

Modifies definition of "recycled material" for provisions relating to reuse and recycling of certain plastics. Applies to sale, offer for sale or use in association with sale or offer for sale of products on or after September 1, 2011, and to determinations for recycling rate made for calendar year 2012 and subsequent calendar years.

For purposes of income and corporate excise tax credits allowed for certain energy facilities, modifies definition of "recycling facility" to include equipment used solely for processing waste plastic into synthetic crude oil.

Applies to preliminary certifications issued on or after January 1, 2012.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to the environment; creating new provisions; amending ORS 459.005, 459.015, 459A.650 and  
3 469.185; and prescribing an effective date.

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

## OREGON RECYCLING POLICY

5  
6  
7  
8 **SECTION 1.** ORS 459.015 is amended to read:

9 459.015. (1) The Legislative Assembly finds and declares that:

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

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

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

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

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

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

25 (g) The State of Oregon should make it a priority to support efforts that assist each wasteshed

**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 in meeting its recovery goal so the statewide recovery goal may be achieved.

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

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

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

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

9 (C) Third, to recycle material that cannot be reused, **including but not limited to processing**  
 10 **waste plastic into synthetic crude oil;**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45

**SOLID WASTE MANAGEMENT**

**SECTION 2.** ORS 459.005 is amended to read:

459.005. As used in ORS 459.005 to 459.437, 459.705 to 459.790 and 459A.005 to 459A.665:

(1) "Affected person" means a person or entity involved in the solid waste collection service process including but not limited to a recycling collection service, disposal site permittee or owner, city, county and metropolitan service district.

(2) "Board of county commissioners" or "board" includes a county court.

(3) "Collection service" means a service that provides for collection of solid waste or recyclable material or both but does not include that part of a business operated under a certificate issued under ORS 822.110.

(4) "Commercial" means stores, offices including manufacturing and industry offices, restaurants, warehouses, schools, colleges, universities, hospitals and other nonmanufacturing entities, but does not include other manufacturing activities or business, manufacturing or processing activities in residential dwellings.

(5) "Commission" means the Environmental Quality Commission.

(6) "Compost" means the controlled biological decomposition of organic material or the product resulting from such a process.

(7) "Department" means the Department of Environmental Quality.

(8)(a) "Disposal site" means land and facilities used for the disposal, handling or transfer of, or energy recovery, material recovery and recycling from solid wastes, including but not limited to dumps, landfills, sludge lagoons, sludge treatment facilities, disposal sites for septic tank pumping or cesspool cleaning service, transfer stations, energy recovery facilities, incinerators for solid waste delivered by the public or by a collection service, composting plants and land and facilities previously used for solid waste disposal at a land disposal site.

(b) "Disposal site" does not include:

(A) A facility authorized by a permit issued under ORS 466.005 to 466.385 to store, treat or dispose of both hazardous waste and solid waste;

(B) A facility subject to the permit requirements of ORS 468B.050 or 468B.053;

(C) A site used by the owner or person in control of the premises to dispose of soil, rock, concrete or other similar nondecomposable material, unless the site is used by the public either directly or through a collection service; or

(D) A site operated by a dismantler issued a certificate under ORS 822.110.

(9) "Energy recovery" means recovery in which all or a part of the solid waste materials are processed to use the heat content, or other forms of energy, of or from the material.

(10) "Franchise" includes a franchise, certificate, contract or license issued by a local government unit authorizing a person to provide solid waste management services.

(11) "Hazardous waste" has the meaning given that term in ORS 466.005.

(12) "Household hazardous waste" means any discarded, useless or unwanted chemical, material, substance or product that is or may be hazardous or toxic to the public or the environment and is commonly used in or around households and is generated by the household. "Household hazardous waste" may include but is not limited to some cleaners, solvents, pesticides and automotive and paint products.

(13) "Land disposal site" means a disposal site in which the method of disposing of solid waste is by landfill, dump, pit, pond or lagoon.

1 (14) "Landfill" means a facility for the disposal of solid waste involving the placement of solid  
 2 waste on or beneath the land surface.

3 (15) "Local government unit" means a city, county, metropolitan service district formed under  
 4 ORS chapter 268, sanitary district or sanitary authority formed under ORS chapter 450, county  
 5 service district formed under ORS chapter 451, regional air quality control authority formed under  
 6 ORS 468A.100 to 468A.130 and 468A.140 to 468A.175 or any other local government unit responsible  
 7 for solid waste management.

8 (16) "Material recovery" means any process of obtaining from solid waste, by presegregation or  
 9 otherwise, materials that still have useful physical or chemical properties and can be reused or re-  
 10 cycled for some purpose.

11 (17) "Metropolitan service district" means a district organized under ORS chapter 268 and ex-  
 12 exercising solid waste authority granted to such district under this chapter and ORS chapters 268 and  
 13 459A.

14 (18) "Person" means the United States, the state or a public or private corporation, local gov-  
 15 ernment unit, public agency, individual, partnership, association, firm, trust, estate or any other le-  
 16 gal entity.

17 (19) "Recyclable material" means any material or group of materials that can be collected and  
 18 sold for recycling at a net cost equal to or less than the cost of collection and disposal of the same  
 19 material.

20 (20) "Recycling" means any process by which solid waste materials are transformed into new  
 21 products in a manner [*that*] **by which** the original products may lose their identity. **For purposes**  
 22 **of this subsection, processing waste plastic into synthetic crude oil is considered recycling.**

23 (21) "Region" means the states of Idaho, Oregon and Washington and those counties in  
 24 California and Nevada that share a common border with Oregon.

25 (22) "Regional disposal site" means a disposal site that receives, or a proposed disposal site that  
 26 is designed to receive more than 75,000 tons of solid waste a year from outside the immediate ser-  
 27 vice area in which the disposal site is located. As used in this subsection, "immediate service  
 28 area" means the county boundary of all counties except a county that is within the boundary of the  
 29 metropolitan service district. For a county within the metropolitan service district, "immediate ser-  
 30 vice area" means the metropolitan service district boundary.

31 (23) "Reuse" means the return of a commodity into the economic stream for use in the same kind  
 32 of application as before without change in its identity.

33 (24) "Solid waste" means all useless or discarded putrescible and nonputrescible materials, in-  
 34 cluding but not limited to garbage, rubbish, refuse, ashes, paper and cardboard, sewage sludge, sep-  
 35 tic tank and cesspool pumpings or other sludge, useless or discarded commercial, industrial,  
 36 demolition and construction materials, discarded or abandoned vehicles or parts thereof, discarded  
 37 home and industrial appliances, manure, vegetable or animal solid and semisolid materials, dead  
 38 animals and infectious waste as defined in ORS 459.386. "Solid waste" does not include:

39 (a) Hazardous waste as defined in ORS 466.005.

40 (b) Materials used for fertilizer or for other productive purposes or which are salvageable as  
 41 such materials are used on land in agricultural operations and the growing or harvesting of crops  
 42 and the raising of animals.

43 (25) "Solid waste management" means prevention or reduction of solid waste, management of the  
 44 storage, collection, transportation, treatment, utilization, processing and final disposal of solid  
 45 waste, recycling, reuse and material or energy recovery from solid waste and facilities necessary

1 or convenient to such activities.

2 (26) "Source separate" means that the person who last uses recyclable material separates the  
3 recyclable material from solid waste.

4 (27) "Transfer station" means a fixed or mobile facility other than a collection vehicle where  
5 solid waste is deposited temporarily after being removed from the site of generation but before being  
6 transported to a final disposal location.

7 (28) "Waste prevention" means to reduce the amount of solid waste generated or resources used,  
8 without increasing toxicity, in the design, manufacture, purchase or use of products or packaging.  
9 "Waste prevention" does not include reuse, recycling or composting.

10 (29) "Wasteshed" means an area of the state having a common solid waste disposal system or  
11 designated by the commission as an appropriate area of the state within which to develop a common  
12 recycling program.

13 (30) "Yard debris" includes grass clippings, leaves, hedge trimmings and similar vegetative waste  
14 generated from residential property or landscaping activities, but does not include stumps or similar  
15 bulky wood materials.

16  
17 **REUSE AND RECYCLING OF PLASTICS**

18  
19 **SECTION 3.** ORS 459A.650 is amended to read:

20 459A.650. As used in ORS 459A.650 to 459A.665:

21 (1) "Package" means any container used to protect, store, contain, transport, display or sell  
22 products.

23 (2) "Package manufacturer" means the producer or generator of a rigid plastic container for a  
24 packaged product that is sold or offered for sale in Oregon.

25 (3) "Product-associated package" means a brand-specific rigid plastic container line, which may  
26 have one or more sizes, shapes or designs and which is used in conjunction with a particular, ge-  
27 neric product line.

28 (4) "Product manufacturer" means the producer or generator of a packaged product that is sold  
29 or offered for sale in Oregon in a rigid plastic container.

30 (5) "Recycled content" means the portion of a package's weight that is composed of recycled  
31 material, as determined by a material balance approach that calculates total recycled material input  
32 as a percentage of total material input in the manufacture of the package.

33 (6)(a) "Recycled material" means:

34 (A) A material that would otherwise be destined for solid waste disposal, having completed its  
35 intended end use or product life cycle; **or**

36 (B) **Synthetic crude oil reclaimed from rigid plastic containers.**

37 (b) "Recycled material" does not include materials and by-products generated from, and com-  
38 monly reused within, an original manufacturing and fabrication process.

39 (7) "Rigid plastic container" means any package composed predominantly of plastic resin which  
40 has a relatively inflexible finite shape or form with a minimum capacity of eight ounces and a  
41 maximum capacity of five gallons, and that is capable of maintaining its shape while holding other  
42 products.

43  
44 **ENERGY TAX CREDITS**

1       **SECTION 4.** ORS 469.185, as amended by section 4, chapter 76, Oregon Laws 2010, is amended  
 2 to read:

3       469.185. As used in ORS 469.185 to 469.225 and 469.878:

4       (1) “Alternative fuel vehicle” means a vehicle as defined by the Director of the State Depart-  
 5 ment of Energy by rule that is used primarily in connection with the conduct of a trade or business  
 6 and that is manufactured or modified to use an alternative fuel, including but not limited to elec-  
 7 tricity, ethanol, methanol, gasohol and propane or natural gas, regardless of energy consumption  
 8 savings.

9       (2) “Car sharing facility” means the expenses of operating a car sharing program, including but  
 10 not limited to the fair market value of parking spaces used to store the fleet of cars available for  
 11 a car sharing program, but does not include the costs of the fleet of cars.

12       (3) “Car sharing program” means a program in which drivers pay to become members in order  
 13 to have joint access to a fleet of cars from a common parking area on an hourly basis. “Car sharing  
 14 program” does not include operations conducted by car rental agencies.

15       (4) “Cost” means the capital costs and expenses necessarily incurred in the acquisition, erection,  
 16 construction and installation of a facility, including site development costs and expenses for a  
 17 sustainable building practices facility.

18       (5) “Energy facility” means any capital investment for which the first year energy savings yields  
 19 a simple payback period of greater than one year. An energy facility includes:

20       (a) Any land, structure, building, installation, excavation, machinery, equipment or device, or  
 21 any addition to, reconstruction of or improvement of, land or an existing structure, building, instal-  
 22 lation, excavation, machinery, equipment or device necessarily acquired, erected, constructed or in-  
 23 stalled by any person in connection with the conduct of a trade or business and actually used in the  
 24 processing or utilization of renewable energy resources to:

25       (A) Replace a substantial part or all of an existing use of electricity, petroleum or natural gas;

26       (B) Provide the initial use of energy where electricity, petroleum or natural gas would have been  
 27 used;

28       (C) Generate electricity to replace an existing source of electricity or to provide a new source  
 29 of electricity for sale by or use in the trade or business;

30       (D) Perform a process that obtains energy resources from material that would otherwise be solid  
 31 waste as defined in ORS 459.005; or

32       (E) Manufacture or distribute alternative fuels, including but not limited to electricity, ethanol,  
 33 methanol, gasohol or biodiesel.

34       (b) Any acquisition of, addition to, reconstruction of or improvement of land or an existing  
 35 structure, building, installation, excavation, machinery, equipment or device necessarily acquired,  
 36 erected, constructed or installed by any person in connection with the conduct of a trade or business  
 37 in order to substantially reduce the consumption of purchased energy.

38       (c) A necessary feature of a new commercial building or multiple unit dwelling, as dwelling is  
 39 defined by ORS 469.160, that causes that building or dwelling to exceed an energy performance  
 40 standard in the state building code.

41       (d) The replacement of an electric motor with another electric motor that substantially reduces  
 42 the consumption of electricity.

43       (6) “Facility” means an energy facility, recycling facility, transportation facility, car sharing  
 44 facility, sustainable building practices facility, alternative fuel vehicle or facilities necessary to op-  
 45 erate alternative fuel vehicles, including but not limited to an alternative fuel vehicle refueling

1 station, a high-efficiency combined heat and power facility, a high-performance home, a  
 2 homebuilder-installed renewable energy system, or a renewable energy resource equipment manu-  
 3 facturing facility.

4 (7) “High-efficiency combined heat and power facility” means a device or equipment that simul-  
 5 taneously produces heat and electricity from a single source of fuel and that meets the criteria es-  
 6 tablished for a high-efficiency combined heat and power facility under ORS 469.197.

7 (8) “High-performance home” means a new single-family dwelling that:

8 (a) Is designed and constructed to reduce net purchased energy through use of both energy ef-  
 9 ficiency and on-site renewable energy resources; and

10 (b) Meets the criteria established for a high-performance home under ORS 469.197.

11 (9) “Homebuilder-installed renewable energy system” means a renewable energy resource system  
 12 that:

13 (a) Meets the criteria established for a renewable energy resource system under ORS 469.197;  
 14 and

15 (b) Is installed in a new single-family dwelling by, or at the direction of, the homebuilder con-  
 16 structing the dwelling.

17 (10) “Qualified transit pass contract” means a purchase agreement entered into between a  
 18 transportation provider and a person, the terms of which obligate the person to purchase transit  
 19 passes on behalf or for the benefit of employees, students, patients or other individuals over a  
 20 specified period of time.

21 (11) “Recycling facility” means equipment used by a trade or business solely for recycling:

22 (a) Including:

23 (A) Equipment used solely for hauling and refining used oil;

24 (B) New vehicles or modifications to existing vehicles used solely to transport used recyclable  
 25 materials that cannot be used further in their present form or location such as glass, metal, paper,  
 26 aluminum, rubber and plastic;

27 (C) Trailers, racks or bins that are used for hauling used recyclable materials and are added to  
 28 or attached to existing waste collection vehicles; *[and]*

29 (D) Any equipment used solely for processing recyclable materials such as balers, flatteners,  
 30 crushers, separators and scales[.]; **and**

31 **(E) Any equipment used solely for processing waste plastic into synthetic crude oil.**

32 (b) But not including equipment used for transporting or processing scrap materials that are  
 33 recycled as a part of the normal operation of a trade or business as defined by the director.

34 (12)(a) “Renewable energy resource” includes, but is not limited to:

35 (A) Straw, forest slash, wood waste or other wastes from farm or forest land, nonpetroleum plant  
 36 or animal based biomass, ocean wave energy, solar energy, wind power, water power or geothermal  
 37 energy;

38 (B) A hydroelectric generating facility that obtains all applicable permits and complies with all  
 39 state and federal statutory requirements for the protection of fish and wildlife and:

40 (i) That does not exceed 10 megawatts of installed capacity; or

41 (ii) Qualifies as a research, development or demonstration facility; or

42 (C) A renewable energy storage device as defined by the director by rule.

43 (b) “Renewable energy resource” does not include a hydroelectric generating facility that is not  
 44 described in paragraph (a) of this subsection.

45 (13) “Renewable energy resource equipment manufacturing facility” means any structure, build-

1 ing, installation, excavation, machinery, equipment or device, or an addition, reconstruction or im-  
 2 provement to land or an existing structure, building, installation, excavation, machinery, equipment  
 3 or device, that is necessarily acquired, constructed or installed by a person in connection with the  
 4 conduct of a trade or business, that is used primarily to manufacture:

5 (a) Equipment, machinery or other products designed to use a renewable energy resource and  
 6 that meets the criteria established under ORS 469.197.

7 (b) Electric vehicles, including three-wheeled vehicles, that are designed for use as Class I or  
 8 Class II all-terrain vehicles, as those terms are defined in ORS 801.190 and 801.193, and that are  
 9 used for agricultural, commercial, industrial or governmental purposes, or designed for use as modes  
 10 of transportation on public roads and highways, or component parts of electric vehicles, but not  
 11 including component parts that may be used in both electric and conventional vehicles. The director  
 12 may further define “agricultural, commercial, industrial or governmental purposes” of electric vehi-  
 13 cles by rule. For purposes of this paragraph, “component parts” does not include batteries.

14 (c) Renewable energy storage devices.

15 (14) “Sustainable building practices facility” means a commercial building in which building  
 16 practices that reduce the amount of energy, water or other resources needed for construction and  
 17 operation of the building are used. “Sustainable building practices facility” may be further defined  
 18 by the State Department of Energy by rule, including rules that establish traditional building prac-  
 19 tice baselines in energy, water or other resource usage for comparative purposes for use in deter-  
 20 mining whether a facility is a sustainable building practices facility.

21 (15) “Transportation facility” means a transportation project that reduces energy use during  
 22 commuting to and from work or school, during work-related travel, or during travel to obtain med-  
 23 ical or other services, and may be further defined by the department by rule. “Transportation facil-  
 24 ity” includes, but is not limited to:

25 (a) A qualified transit pass contract or a transportation services contract; or

26 (b) The purchase of efficient truck technology and related truck trailers, as defined in ORS  
 27 801.580, for commercial motor vehicles, as defined in ORS 801.208, that are registered under ORS  
 28 803.420, or for commercial motor vehicles that are proportionally registered under ORS 826.009 or  
 29 826.011.

30 (16) “Transportation provider” means a public, private or nonprofit entity that provides trans-  
 31 portation services to members of the public.

32 (17) “Transportation services contract” means a contract that is related to a transportation fa-  
 33 cility, and may be further defined by the department by rule.

34  
 35 **MISCELLANEOUS**

36  
 37 **SECTION 5. (1) The amendments to ORS 459A.650 by section 3 of this 2011 Act apply to:**

38 (a) **The sale, offer for sale or use in association with the sale or offer for sale of products**  
 39 **described in ORS 459A.655 on or after September 1, 2011.**

40 (b) **Determinations for the recycling rate described in ORS 459A.657 made for calendar**  
 41 **year 2012 and subsequent calendar years.**

42 (2) **The amendments to ORS 469.185 by section 4 of this 2011 Act apply to preliminary**  
 43 **certifications issued under ORS 469.210 on or after January 1, 2012.**

44 **SECTION 6. The unit captions used in this 2011 Act are provided only for the convenience**  
 45 **of the reader and do not become part of the statutory law of this state or express any leg-**



1 **islative intent in the enactment of this 2011 Act.**

2 **SECTION 7. This 2011 Act takes effect on the 91st day after the date on which the 2011**  
3 **regular session of the Seventy-sixth Legislative Assembly adjourns sine die.**

4

---