

# D R A F T

## SUMMARY

Establishes product stewardship program for household hazardous waste.

### A BILL FOR AN ACT

Relating to household hazardous waste stewardship; creating new provisions;  
and amending ORS 459.415.

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

**SECTION 1. As used in sections 1 to 10 of this 2015 Act:**

(1) **“Brand” means a name, symbols, words or marks that identify a covered product and attribute the product to the owner of the brand as the manufacturer.**

(2) **“Covered entity” means any Oregon household, a business that employs 10 or fewer individuals, a not-for-profit organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code that employs 10 or fewer individuals, or any person giving seven or fewer covered products to a stewardship organization at any one time.**

(3) **“Covered product” means a product included on the list adopted by the Environmental Quality Commission under section 7 of this 2015 Act as a product that, if discarded, would constitute a household hazardous waste as that term is defined in ORS 459.005.**

(4) **“Environmentally sound management practices” means practices that comply with all applicable laws, including but not limited to adequate record keeping, tracking the fate of recycled materials, performance audits and inspections, provisions for reuse and refurbishment, compliance with worker health and safety require-**

1 **ments, maintaining liability insurance and financial assurances and**  
2 **practices that may be adopted by rule by the Environmental Quality**  
3 **Commission.**

4 **(5)(a) “Manufacturer” means any person, irrespective of the selling**  
5 **technique used, including by means of remote sale:**

6 **(A) That manufactures covered products under a brand that it owns**  
7 **or is licensed to use;**

8 **(B) That sells covered products manufactured by others under a**  
9 **brand that the seller owns;**

10 **(C) That manufactures covered products without affixing a brand;**

11 **(D) That manufactures covered products to which it affixes a brand**  
12 **that it does not own; or**

13 **(E) On whose account covered products manufactured outside the**  
14 **United States are imported into the United States. This subparagraph**  
15 **does not apply if, at the time the covered products are imported into**  
16 **the United States, another person is registered as the manufacturer**  
17 **of the brand of the covered products.**

18 **(6) “Orphan product” means a covered product for which no man-**  
19 **ufacturer can be identified.**

20 **(7) “Person” means the United States, the state or a public or pri-**  
21 **vate corporation, local government unit, public agency, individual,**  
22 **partnership, association, firm, trust, estate or other legal entity.**

23 **(8) “Premium service” means services such as at-home pickup ser-**  
24 **vices, including curbside pickup service.**

25 **(9) “Retailer” means a person that offers new covered products for**  
26 **sale at retail through any means, including but not limited to remote**  
27 **offerings such as sales outlets, catalogs or the Internet.**

28 **(10) “Return share” means the minimum percentage of covered**  
29 **products that a stewardship organization is responsible for collecting,**  
30 **transporting and recycling.**

31 **(11) “Return share by weight” means the minimum total weight of**

1 covered products that a stewardship organization is responsible for  
2 collecting, transporting and recycling.

3 (12) “Stewardship organization” means a corporation, nonprofit or-  
4 ganization or other legal entity created by a manufacturer or a group  
5 of manufacturers to implement a stewardship program as described in  
6 sections 1 to 10 of this 2015 Act.

7 (13) “Stewardship program” means a statewide plan for collecting,  
8 transporting and recycling covered products.

9 **SECTION 2.** A manufacturer or retailer may not sell or offer for  
10 sale any covered product to any person in this state unless:

11 (1) The covered product is labeled with a brand; and

12 (2) The brand is included in a plan that is filed with the Department  
13 of Environmental Quality pursuant to section 4 of this 2015 Act.

14 **SECTION 3.** (1) Before January 1 of each year, a stewardship or-  
15 ganization for covered products sold or offered for sale in this state  
16 shall register with the Department of Environmental Quality, for a  
17 period to cover the upcoming calendar year, on a form provided by the  
18 department. The registration shall include:

19 (a) A list of all manufacturers that are participating in the  
20 stewardship organization.

21 (b) A list of all the brands manufactured, sold or imported by the  
22 manufacturers participating in the stewardship organization, including  
23 those brands being offered for sale in this state by the manufacturer.

24 (c) Any other information required by the department to implement  
25 sections 1 to 10 of this 2015 Act.

26 (2)(a) Not later than July 1 of each year, a stewardship organization  
27 for covered products sold or offered for sale in this state shall pay an  
28 annual registration fee to the department.

29 (b) The registration fee shall be in an amount prescribed by the  
30 department by rule, based on the estimated weight of covered products  
31 collected under the plan submitted by the stewardship organization for

1 the upcoming calendar year.

2 **SECTION 4. (1) A stewardship organization shall submit a plan to**  
3 **the Department of Environmental Quality at the time of payment of**  
4 **the annual registration fee required under section 3 of this 2015 Act.**

5 **(2) The stewardship organization's plan must describe how the**  
6 **stewardship organization will:**

7 **(a) Finance, manage and conduct a statewide stewardship program**  
8 **to collect covered products from covered entities in this state.**

9 **(b) Provide for environmentally sound management practices to**  
10 **collect, transport and recycle covered products.**

11 **(c) Provide for public education on reducing the use of covered**  
12 **products.**

13 **(d) Provide for advertising and promotion of collection opportu-**  
14 **nities statewide and on a regular basis.**

15 **(e) Include convenient service in every county in this state and at**  
16 **least one collection site for any city with a population of at least**  
17 **10,000. A collection site for a county may be the same as a collection**  
18 **site for a city in the county. Collection sites shall be staffed and open**  
19 **to the public at a frequency adequate to meet the needs of the area**  
20 **being served. A stewardship organization may provide collection ser-**  
21 **vice jointly with another stewardship organization.**

22 **(3) A stewardship organization shall:**

23 **(a) Meet or exceed the requirements for collection sites described**  
24 **in subsection (2) of this section.**

25 **(b) Provide for collection, transportation and recycling of covered**  
26 **products for covered entities free of charge, except that a stewardship**  
27 **organization that provides premium service for a covered entity may**  
28 **charge for the additional cost of that premium service.**

29 **(c) Implement the plan required under this section.**

30 **(d) Notify retailers that sell covered products by manufacturers**  
31 **participating in the stewardship organization about the stewardship**

1 **program.**

2 (e) Conduct a statistically significant sampling or actual count of  
3 the covered products collected by the stewardship organization each  
4 calendar year using a methodology approved by the department. The  
5 stewardship organization shall report the results of the sampling or  
6 count to the department, in accordance with the approved sampling  
7 methodology or as directed by the department, no later than March 1  
8 of the following calendar year. The report must include:

9 (A) A list of all brands identified during the sampling or count by  
10 the stewardship organization;

11 (B) The weight of covered products identified for each brand during  
12 the sampling or count; and

13 (C) The total weight of covered products, including orphan pro-  
14 ducts, collected from covered entities in the state by the stewardship  
15 organization during the previous calendar year.

16 (f) By March 1 of each year, provide a report to the department that  
17 details how the plan required under this section was implemented  
18 during the previous calendar year.

19 (g) Establish and maintain a website that provides information  
20 about collection sites under the plan, which manufacturers participate  
21 in the stewardship organization under the plan and which covered  
22 products are sold or offered for sale in this state by participating  
23 manufacturers.

24 (4)(a) A stewardship organization may implement a stewardship  
25 program on behalf of one manufacturer, or a group of manufacturers,  
26 provided that the sum of the individual return shares by weight under  
27 section 6 of this 2015 Act for manufacturers that participate in the  
28 stewardship program must be at least 20 percent.

29 (b) The total return share for all manufacturers that participate in  
30 a stewardship organization shall be the return share for the  
31 stewardship program implemented by the stewardship organization for

1 purposes of sections 1 to 10 of this 2015 Act.

2 (5) By July 1 of each year, a stewardship organization that does not  
3 meet the return share by weight for its program for the previous cal-  
4 endar year shall pay the department for the amount not achieved at  
5 a rate determined by the department to be equivalent to the amount  
6 the stewardship organization would have paid for each pound of the  
7 return share not met, plus 10 percent.

8 (6) A manufacturer with less than a 20 percent return share is re-  
9 quired to participate in a stewardship organization for a group of  
10 manufacturers.

11 **SECTION 5.** (1) A stewardship organization that collects, transports  
12 and recycles covered products in an amount that exceeds the  
13 stewardship program's return share by weight for a calendar year may  
14 claim recycling credits for use in succeeding calendar years as follows:

15 (a) A program may claim one recycling credit for each pound of  
16 covered products collected, transported and recycled in excess of the  
17 program's return share by weight for a calendar year;

18 (b) A program may retain all or part of its recycling credits or may  
19 sell any portion of its recycling credits to another program at a price  
20 negotiated by the parties;

21 (c) A program may use recycling credits earned or purchased to  
22 meet up to 15 percent of its return share by weight during any calen-  
23 dar year. One recycling credit may be used to meet one pound of re-  
24 turn share by weight; and

25 (d) By rule, the Environmental Quality Commission may change the  
26 percentage of the return share by weight specified in paragraph (c) of  
27 this subsection.

28 (2) A stewardship organization must include the following informa-  
29 tion on recycling credits in its annual report to the Department of  
30 Environmental Quality required by section 4 of this 2015 Act:

31 (a) The number of recycling credits the stewardship organization

1 possessed at the beginning of the previous calendar year.

2 (b) The total number of recycling credits the stewardship organiza-  
3 tion purchased and sold during the previous calendar year, the names  
4 of the stewardship organizations from which recycling credits were  
5 purchased or to which recycling credits were sold and the number of  
6 recycling credits purchased from or sold to each stewardship organ-  
7 ization.

8 (c) The number of recycling credits the stewardship organization  
9 used to meet its return share by weight for the previous calendar year.

10 (d) The number of recycling credits the stewardship organization is  
11 claiming from the previous calendar year. This number is the differ-  
12 ence between the total weight of covered products that the  
13 stewardship organization collected, transported and recycled during  
14 the previous calendar year and the stewardship organization's return  
15 share by weight for the previous calendar year.

16 **SECTION 6.** The Department of Environmental Quality shall:

17 (1) Review and approve stewardship organization plans that comply  
18 with section 4 of this 2015 Act.

19 (2)(a) Determine the return share and return share by weight for  
20 each calendar year for each manufacturer. The return share shall be  
21 determined by dividing the total weight of covered products of that  
22 manufacturer's brands by the total weight of covered products for all  
23 manufacturers' brands. The return share by weight shall be deter-  
24 mined by multiplying the return share for each such manufacturer by  
25 the total weight in pounds of covered products, including orphan pro-  
26 ducts, as determined by the department.

27 (b) For each manufacturer, determine the return share and return  
28 share by weight for calendar years through 2018 based on the best  
29 available public return share data and public weight data from within  
30 the United States for covered products from covered entities. For  
31 subsequent years, the return share of covered products for each man-

1 **manufacturer shall be based on the most recent annual sampling or count**  
2 **of covered products. For subsequent years, the total weight in pounds**  
3 **of covered products shall be based on the total weight of covered pro-**  
4 **ducts, including orphan products, as determined by the department.**

5 **(c) By May 1 of each year, provide to each manufacturer that had**  
6 **a return share determined under this section its return share and its**  
7 **return share by weight for the following year.**

8 **(3) Determine a stewardship organization's annual registration fee**  
9 **for purposes of section 4 of this 2015 Act.**

10 **(4) Report biennially to the Legislative Assembly on the operation**  
11 **of the statewide system for collection, transportation and recycling of**  
12 **covered products.**

13 **SECTION 7. (1) The Environmental Quality Commission may adopt**  
14 **rules as necessary to implement sections 1 to 10 of this 2015 Act.**

15 **(2) As part of the rules adopted under this section, the commission**  
16 **shall adopt a list of products to be covered by sections 1 to 10 of this**  
17 **2015 Act.**

18 **SECTION 8. (1) In accordance with the applicable provisions of ORS**  
19 **chapter 183 relating to contested case proceedings, the Department of**  
20 **Environmental Quality may issue an order requiring compliance with**  
21 **the provisions of sections 1 to 10 of this 2015 Act.**

22 **(2) The department may bring an action against any manufacturer**  
23 **or stewardship organization in violation of the provisions of sections**  
24 **1 to 10 of this 2015 Act.**

25 **SECTION 9. Fees collected by the Department of Environmental**  
26 **Quality under sections 1 to 10 of this 2015 Act shall be deposited in the**  
27 **State Treasury to the credit of the Household Hazardous Waste**  
28 **Stewardship Fund established under section 10 of this 2015 Act.**

29 **SECTION 10. The Household Hazardous Waste Stewardship Fund is**  
30 **established, separate and distinct from the General Fund. Interest**  
31 **earned by the Household Hazardous Waste Stewardship Fund shall be**



1 **credited to the fund. Moneys in the fund are continuously appropriated**  
2 **to the Department of Environmental Quality and may be used only to**  
3 **pay the costs of implementing sections 1 to 10 of this 2015 Act.**

4 **SECTION 11.** ORS 459.415 is amended to read:

5 459.415. (1) Before any local government **unit or stewardship organiza-**  
6 **tion operating a household hazardous waste stewardship program un-**  
7 **der sections 1 to 10 of this 2015 Act** operates a permanent collection depot  
8 or periodic collection events for household hazardous waste or hazardous  
9 waste generated by conditionally exempt small quantity generators, the local  
10 government **unit or stewardship organization** shall receive written ap-  
11 proval from the Department of Environmental Quality.

12 (2) In requesting written approval from the department, a local govern-  
13 ment unit **or stewardship organization** proposing to operate a permanent  
14 collection depot or periodic collection events shall submit a detailed pro-  
15 posal. The proposal shall include at least the following information:

16 (a) Measures to be taken to insure safety of the public and employees or  
17 volunteers working at the collection site;

18 (b) Measures to be taken to prevent spills or releases of hazardous waste  
19 and a plan to respond to a spill or release if one occurs;

20 (c) A copy of the request for proposals for a contractor to properly man-  
21 age and recycle or dispose of the waste collected in a manner consistent with  
22 the rules of the Environmental Quality Commission for hazardous waste  
23 collection, storage, transportation and disposal; and

24 (d) Measures to be implemented to insure no waste is accepted from gen-  
25 erators of hazardous waste subject to regulation under ORS 466.005 to  
26 466.385 unless the intent is to specifically collect such waste.

27 (3) The department may request additional information about the proposed  
28 program from the local government unit **or stewardship organization**. The  
29 department shall not approve a program unless the program provides ade-  
30 quate provisions to protect the public health, safety and the environment.

31 **SECTION 12.** (1) **Sections 1 to 10 of this 2015 Act and the amend-**

1 ment to ORS 459.415 by section 11 of this 2015 Act apply to all man-  
2 ufacturers engaging in the activities set forth in section 1 (5) of this  
3 2015 Act before, on or after January 1, 2018.

4 SECTION 13. (1) Sections 1 to 10 of this 2015 Act and the amend-  
5 ments to ORS 459.415 by section 11 of this 2015 Act become operative  
6 January 1, 2018.

7 (2) The Environmental Quality Commission and the Department of  
8 Environmental Quality may take any action before the operative date  
9 specified in subsection (1) of this section that is necessary for the  
10 commission or the department to exercise, on and after the operative  
11 date specified in subsection (1) of this section, all of the duties, func-  
12 tions and powers conferred on the commission or the department by  
13 sections 1 to 10 of this 2015 Act and the amendments to ORS 459.415  
14 by section 11 of this 2015 Act.

15

---