

D R A F T

SUMMARY

Prohibits sale of products that make deceptive or misleading claims about recyclability. Directs Environmental Quality Commission to adopt rules for products that make claims about recyclability. Permits Department of Environmental Quality or any other person to bring action enforcing prohibition on sale of deceptive or misleading products.

Imposes civil penalty of up to \$25,000 per day of violation of prohibition.

Applies to products sold on or after January 1, 2023.

Takes effect on 91st day after adjournment sine die.

A BILL FOR AN ACT

Relating to claims about the recyclability of products; creating new provisions; amending ORS 459.995; repealing ORS 459A.675, 459A.680 and 459A.685; and prescribing an effective date.

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

SECTION 1. (1) **As used in this section:**

(a) **“Chasing arrows symbol” means:**

(A) **An equilateral triangle formed by three arrows, curved at their midpoints, depicting a clockwise path, with a short gap separating the apex of each arrow from the base of the adjacent arrow; or**

(B) **A similar symbol.**

(b) **“Collection service” has the meaning given that term in ORS 459.005.**

(c) **“Product” includes any item sold in this state, the packaging of the item or the material used to make the item or packaging.**

(d) **“Resin identification code” means a number that corresponds with a type of plastic resin used to make a product.**

1 **(2)(a) A person may not distribute, sell or offer to sell, including**
2 **by means of remote sale, any product that makes a deceptive or mis-**
3 **leading claim about the recyclability of the product.**

4 **(b) A product that displays a chasing arrows symbol, a chasing ar-**
5 **rows symbol surrounding a resin identification code or any other**
6 **symbol or statement indicating the product is recyclable is deemed to**
7 **be deceptive or misleading unless:**

8 **(A) The product is accepted for collection by a majority of recycling**
9 **collection services in this state; or**

10 **(B) The product is labeled in accordance with labeling standards**
11 **established by the Environmental Quality Commission under sub-**
12 **section (3) of this section.**

13 **(3) The commission shall establish by rule labeling standards for**
14 **products that make claims about the recyclability of the product. La-**
15 **beling standards established under this subsection:**

16 **(a) Must require a statement informing consumers that the product**
17 **is not to be placed with other materials for collection by a recycling**
18 **collection service if the product is not accepted for collection by a**
19 **majority of recycling collection services in this state; and**

20 **(b) May require a statement identifying the correct recycling**
21 **method for the material.**

22 **SECTION 2.** **(1) In accordance with the applicable provisions of ORS**
23 **chapter 183 relating to contested case proceedings, the Department of**
24 **Environmental Quality may issue an order requiring compliance with**
25 **the provisions of section 1 of this 2021 Act.**

26 **(2) The department, or any other person, may bring an action in a**
27 **court of competent jurisdiction to enforce the requirements of section**
28 **1 of this 2021 Act. The court may grant injunctive relief pursuant to**
29 **this subsection.**

30 **SECTION 3.** **ORS 459A.675, 459A.680 and 459A.685 are repealed.**

31 **SECTION 4.** **ORS 459.995 is amended to read:**

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

3 (a) Any person who violates ORS 459.205, 459.270, 459.272, 459.386 to
4 459.405, 459.705 to 459.790, 459A.005 to 459A.620, 459A.310 to 459A.335[,
5 459A.675 to 459A.685] or 646A.080 **or section 1 of this 2021 Act**, or any rule
6 or order of the Environmental Quality Commission pertaining to the dis-
7 posal, collection, storage or reuse or recycling of solid wastes, as defined by
8 ORS 459.005, or any rule or order pertaining to the disposal, storage or
9 transportation of waste tires, as defined by ORS 459.705, or any rule or order
10 pertaining to the sale of novelty items that contain encapsulated liquid
11 mercury, **or any rule or order pertaining to claims of product**
12 **recyclability**, incurs a civil penalty not to exceed \$25,000 per day for each
13 day of the violation.

14 (b) Any person who violates the provisions of ORS 459.420 to 459.426 in-
15 curs a civil penalty not to exceed \$500 for each violation. Each battery that
16 is disposed of improperly is a separate violation. Each day an establishment
17 fails to post the notice required under ORS 459.426 is a separate violation.

18 (c) For each day a city, county or metropolitan service district fails to
19 provide the opportunity to recycle as required under ORS 459A.005, the city,
20 county or metropolitan service district incurs a civil penalty not to exceed
21 \$500 for each violation.

22 (d) Any person who violates the provisions of ORS 459.247 (1)(f) incurs a
23 civil penalty not to exceed \$500 for each violation. Each covered electronic
24 device that is disposed of improperly is a separate violation.

25 (e) Any retailer that violates the provisions of ORS 459A.825 (1) or (2)(b)
26 incurs a civil penalty not to exceed \$100 per day for each day of the vio-
27 lation.

28 (f) Any producer that violates the provisions of ORS 459A.825 (1) incurs
29 a civil penalty not to exceed \$1,000 per day for each day of the violation.

30 (g) Any stewardship organization that violates the provisions of ORS
31 459A.825 (2)(a), 459A.827, 459A.830 to 459A.837 or 459A.842 incurs a civil

penalty not to exceed \$1,000 per day for each day of the violation.

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

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

SECTION 5. Section 1 of this 2021 Act applies to products distributed, sold or offered for sale on or after January 1, 2023.

SECTION 6. (1) Sections 1 and 2 of this 2021 Act, the amendments to ORS 459.995 by section 4 of this 2021 Act and the repeal of ORS 459A.675, 459A.680 and 459A.685 by section 3 of this 2021 Act become operative on January 1, 2023.

(2) The Department of Environmental Quality and the Environmental Quality Commission may take any action before the operative date specified in subsection (1) of this section that is necessary for the department or the commission to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the department or the commission by sections 1 and 2 of this 2021 Act, the amendments to ORS 459.995 by section 4 of this 2021 Act and the repeal of ORS 459A.675, 459A.680 and 459A.685 by section 3 of this 2021 Act.

SECTION 7. This 2021 Act takes effect on the 91st day after the date on which the 2021 regular session of the Eighty-first Legislative Assembly adjourns sine die.