

House Bill 2383

Sponsored by Representative HOLVEY (at the request of Oregon Refuse and Recycling Association) (Pre-session filed.)

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**.

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

1
2 Relating to claims about the recyclability of products; creating new provisions; amending ORS
3 459.995; repealing ORS 459A.675, 459A.680 and 459A.685; and prescribing an effective date.

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

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

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

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

10 (B) **A similar symbol.**

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

12 (c) **“Product” includes any item sold in this state, the packaging of the item or the ma-**
13 **terial used to make the item or packaging.**

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

16 (2)(a) **A person may not distribute, sell or offer to sell, including by means of remote sale,**
17 **any product that makes a deceptive or misleading claim about the recyclability of the prod-**
18 **uct.**

19 (b) **A product that displays a chasing arrows symbol, a chasing arrows symbol sur-**
20 **rounding a resin identification code or any other symbol or statement indicating the product**
21 **is recyclable is deemed to be deceptive or misleading unless:**

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

24 (B) **The product is labeled in accordance with labeling standards established by the En-**
25 **vironmental Quality Commission under subsection (3) of this section.**

26 (3) **The commission shall establish by rule labeling standards for products that make**
27 **claims about the recyclability of the product. Labeling standards established under this sub-**
28 **section:**

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 (a) Must require a statement informing consumers that the product is not to be placed
2 with other materials for collection by a recycling collection service if the product is not ac-
3 cepted for collection by a majority of recycling collection services in this state; and

4 (b) May require a statement identifying the correct recycling method for the material.

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

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

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

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

13 459.995. (1) Except as provided in subsection (2) of this section, in addition to any other penalty
14 provided by law:

15 (a) Any person who violates ORS 459.205, 459.270, 459.272, 459.386 to 459.405, 459.705 to 459.790,
16 459A.005 to 459A.620, 459A.310 to 459A.335[, 459A.675 to 459A.685] or 646A.080 **or section 1 of this**
17 **2021 Act**, or any rule or order of the Environmental Quality Commission pertaining to the disposal,
18 collection, storage or reuse or recycling of solid wastes, as defined by ORS 459.005, or any rule or
19 order pertaining to the disposal, storage or transportation of waste tires, as defined by ORS 459.705,
20 or any rule or order pertaining to the sale of novelty items that contain encapsulated liquid mer-
21 cury, **or any rule or order pertaining to claims of product recyclability**, incurs a civil penalty
22 not to exceed \$25,000 per day for each day of the violation.

23 (b) Any person who violates the provisions of ORS 459.420 to 459.426 incurs a civil penalty not
24 to exceed \$500 for each violation. Each battery that is disposed of improperly is a separate violation.
25 Each day an establishment fails to post the notice required under ORS 459.426 is a separate vio-
26 lation.

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

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

33 (e) Any retailer that violates the provisions of ORS 459A.825 (1) or (2)(b) incurs a civil penalty
34 not to exceed \$100 per day for each day of the violation.

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

37 (g) Any stewardship organization that violates the provisions of ORS 459A.825 (2)(a), 459A.827,
38 459A.830 to 459A.837 or 459A.842 incurs a civil penalty not to exceed \$1,000 per day for each day
39 of the violation.

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

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

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

3 **SECTION 6.** (1) Sections 1 and 2 of this 2021 Act, the amendments to ORS 459.995 by
4 section 4 of this 2021 Act and the repeal of ORS 459A.675, 459A.680 and 459A.685 by section
5 3 of this 2021 Act become operative on January 1, 2023.

6 (2) The Department of Environmental Quality and the Environmental Quality Commis-
7 sion may take any action before the operative date specified in subsection (1) of this section
8 that is necessary for the department or the commission to exercise, on and after the oper-
9 ative date specified in subsection (1) of this section, all of the duties, functions and powers
10 conferred on the department or the commission by sections 1 and 2 of this 2021 Act, the
11 amendments to ORS 459.995 by section 4 of this 2021 Act and the repeal of ORS 459A.675,
12 459A.680 and 459A.685 by section 3 of this 2021 Act.

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

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