

House Bill 3271

Sponsored by Representative WILDE

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**.

Establishes carpet stewardship program.
Established standards for carpet sold or distributed in this state.
Establishes carpet stewardship advisory committee.
Establishes Carpet Stewardship Fund.
Imposes civil penalties for violation of program provisions not to exceed, per day for each day of violation, \$100 for violation by retailer, \$10,000 for violation by producer and \$1,000 for violation by stewardship organization.
Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to carpet; creating new provisions; amending ORS 459.995; and prescribing an effective
3 date.

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

5 **SECTION 1. Legislative findings and declarations. The Legislative Assembly finds and**
6 **declares that it is in the best interests of the State of Oregon to meet the statewide carpet**
7 **recovery rate goal set forth in ORS 459A.010 of at least 25 percent of carpet waste recovered**
8 **from the general solid waste stream by calendar year 2025 and to reduce greenhouse gases**
9 **by recycling rather than landfilling or using carpet for energy recovery.**

10 **SECTION 2. Definitions. As used in this section:**

11 (1) "Brand" means a name, symbol, word, mark or a combination thereof that attributes
12 a carpet to the producer of the carpet.

13 (2)(a) "Carpet" includes:

14 (A) Artificial turf;

15 (B) Commercial or residential broadloom carpet;

16 (C) A pad or underlayment used in conjunction with a carpet;

17 **or**

18 (D) Any manufactured article that is:

19 (i) Affixed or placed on the floor or walking surface of a building as a decorative or
20 functional interior or exterior feature; and

21 (ii) Primarily constructed of a top surface of synthetic or natural face fibers, yarns or
22 tufts attached to a backing system made of synthetic or natural materials.

23 (b) "Carpet" does not include handmade rugs, area rugs or mats.

24 (3) "Carpet stewardship advisory committee" means the advisory committee established
25 under section 5 of this 2021 Act.

26 (4) "Carpet stewardship program" means a statewide program for the collection of dis-
27 carded carpet and environmentally sound management of carpet that is established, financed
28 and operated by a stewardship organization pursuant to a plan approved by the Department

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 of Environmental Quality under section 8 of this 2021 Act.

2 (5) "Closed-loop recycling" means a process by which discarded carpet is collected, recycled and then used again to make new carpet.

3 (6) "Collection" means any method of consolidating or temporarily storing discarded carpet.

4 (7) "Collection rate" means the percentage of total discarded carpet that is collected for recycling or reuse by a stewardship organization during a program year.

5 (8) "Collector" means a person who collects discarded carpet for the purpose of supplying recyclers.

6 (9) "Consumer" means a person who purchases carpet at retail.

7 (10) "Discarded carpet" means carpet that has been used and abandoned or discarded.

8 (11) "Distributor" means:

9 (a) A carpet wholesaler; or

10 (b) A person who buys or otherwise acquires carpet and sells or offers to sell carpet to retailers.

11 (12) "Energy recovery" has the meaning given that term in ORS 459.005.

12 (13) "Environmentally sound management" includes the following management practices implemented in a manner designed to protect public health and safety and the environment:

13 (a) Record keeping kept in a form that is secure and nonrepudiable, including:

14 (A) Financial records, including collection, transportation, processing and incentive payments;

15 (B) Quantities by weight, expressed in pounds, of discarded carpet from collection through to final disposition, by type of polymer or nonpolymer material used to make the carpet; and

16 (C) Transaction records associated with the transfer of discarded carpets.

17 (b) Keeping detailed documentation of the methods used to:

18 (A) Manage discarded carpet;

19 (B) Track and document the fate of discarded carpet from collection through final disposition within this state and outside this state; and

20 (C) Track remanufactured or derived products coming from the final disposition of discarded carpet.

21 (c) Performance audits as described in section 15 of this 2021 Act or other inspections as described in section 7 of this 2021 Act.

22 (d) Compliance with worker health and safety requirements.

23 (e) Maintenance of adequate liability insurance for a stewardship organization and contractors working for the stewardship organization.

24 (14) "Perfluoroalkyl or polyfluoroalkyl substance" means a substance included in a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

25 (15) "Person" means the United States, the state or a public or private corporation, local government, public agency, individual, partnership, association, firm, trust, estate or any other legal entity.

26 (16) "Processor" means a person that uses a process including but not limited to shredding, grinding, sheering or depolymerization to convert discarded carpet into finished recycled output ready to be used as an input material for manufacturing products.

27 (17) "Producer" means:

1 (a) A person that manufactures, under the manufacturer's own brand, carpet that is
2 sold, offered for sale or distributed in this state;

3 (b) If the manufacturer of the carpet is not the owner of the brand or trademark under
4 which the carpet is sold, a person that is the owner of the trademark or brand under which
5 carpet is sold, offered for sale or distributed in this state, whether or not the trademark or
6 brand is registered in this state; or

7 (c) If no person described in paragraphs (a) and (b) of this subsection exists within the
8 United States, a person that imports carpet into the United States that is sold or offered for
9 sale or distributed in this state.

10 (18) "Proprietary information" means information that is a trade secret or is production,
11 commercial or financial information and that if disclosed would impair the competitive posi-
12 tion of the submitter.

13 (19) "Recycler" means a person that engages in recycling.

14 (20)(a) "Recycling" means the process by which discarded carpet is processed and re-
15 turned to the economic mainstream for the purpose of preparing the materials, components
16 or commodities for use or reuse in new products or components.

17 (b) "Recycling" does not include:

18 (A) Energy recovery or energy generation by means of combustion; or

19 (B) Landfill disposal of discarded carpet.

20 (21) "Recycling rate" means the percentage of total discarded carpet that is collected by
21 a stewardship organization and recycled in a program year.

22 (22) "Retailer" means a person that offers new or used carpet for retail sale.

23 (23) "Retail sale" means a sale to a consumer by any means and for any purpose other
24 than resale, including but not limited to remote sales through catalogs or the Internet.

25 (24) "Reuse rate" means the percentage of total discarded carpet that is collected and
26 reused in a program year.

27 (25) "Sale" or "sell" means:

28 (a) A transfer for consideration of the title of carpet delivered or shipped to a purchaser
29 in this state, including a remote sale conducted through a catalog, website, telephone or
30 through other electronic means; or

31 (b) A lease through which carpet is provided to a consumer in this state by a producer,
32 distributor or retailer.

33 (26) "Sorter" means a person that performs the sorting of discarded carpet for use by a
34 third party.

35 (27) "Sorting" means a method used to separate discarded carpet into the carpet's vari-
36 ous backing types or fiber types.

37 (28) "Stewardship organization" means an organization designated by a producer or group
38 of producers to implement a carpet stewardship program.

39 (29) "Total discarded carpet" means the total amount of carpet discarded in this state,
40 calculated using a methodology approved by the Department of Environmental Quality, that
41 includes annual sales data, average carpet weight and the replacement rate of carpet.

42 SECTION 3. Requirement to participate in a carpet stewardship program and register
43 with the Department of Environmental Quality. (1)(a) A producer may not sell, distribute or
44 offer for sale any carpet to any person in this state unless the producer is participating in
45 a stewardship organization that operates a carpet stewardship program approved by the De-

1 department of Environmental Quality under section 8 of this 2021 Act.

2 (b) A producer must participate in an existing stewardship organization that operates an
3 approved carpet stewardship program or establish and implement an approved carpet
4 stewardship program within six months of the date on which the producer's carpet is first
5 sold or distributed within this state.

6 (2)(a) A retailer may not sell, distribute or offer for sale any carpet to any person in this
7 state unless the retailer is registered with the department.

8 (b) A retailer may not purchase a carpet from a producer or distributor unless the pro-
9 ducer is participating in a stewardship organization or the distributor is registered with the
10 department as of the date of purchase.

11 (c) A retailer may not sell or offer for sale carpet in this state unless the producer of the
12 carpet is participating in a carpet stewardship program.

13 (3)(a) A distributor may not sell, distribute or offer for sale any carpet to any person in
14 this state unless the distributor is registered with the department.

15 (b) A retailer may not sell or offer for sale carpet in this state unless the producer of
16 the carpet is participating in a carpet stewardship program.

17 (4) A retailer does not violate subsection (2)(c) of this section and a distributor does not
18 violate subsection (3)(b) of this section if, on the date the carpet was ordered from the pro-
19 ducer or its agent, the producer was listed as in compliance with sections 1 to 19 of this 2021
20 Act on a website maintained by the department.

21 (5)(a) Except as provided in paragraph (b) of this subsection, nothing in this section
22 prevents a stewardship organization from coordinating efforts for carrying out a carpet
23 stewardship program in this state with programs for the collection and environmentally
24 sound management of discarded carpet in other states.

25 (b) A stewardship organization shall provide notice to the department before coordinating
26 a carpet stewardship program with a program in another state.

27 **SECTION 4. Labeling, warranty, adhesive and design requirements.** (1) Carpet sold, of-
28 fered for sale or distributed in this state must be accompanied by the following identifying
29 information:

30 (a) The name and contact information of the producer; and

31 (b) Carpet material, composition and type of construction.

32 (2) Carpet sold, offered for sale or distributed within this state must be subject to an
33 express warranty for a period of five years, with exceptions for inappropriate use or damage.

34 (3) A person may not use a permanent adhesive to install a carpet within this state.

35 (4) Carpet sold, offered for sale or distributed within this state must be designed to allow:

36 (a) Installation without the use of adhesive; and

37 (b) Removal without significant damage to the carpet.

38 (5) Carpet sold, offered for sale or distributed within this state may not contain a
39 perfluoroalkyl or polyfluoroalkyl substance.

40 **SECTION 5. Carpet stewardship advisory committee.** (1)(a) The Director of the Depart-
41 ment of Environmental Quality shall appoint a carpet stewardship advisory committee of not
42 more than 13 members as follows:

43 (A) Two representatives of carpet producers;

44 (B) Two representatives of carpet recyclers;

45 (C) Two representatives of associations representing waste disposal companies;

1 (D) Two representatives of local government solid waste management programs;

2 (E) One representative of companies that utilize old carpet to manufacture a new product
3 other than carpet;

4 (F) One representative of an association representing retailers;

5 (G) One representative of an association representing carpet installers;

6 (H) One representative of an environmental organization; and

7 (I) One representative of a community based organization or an organization represent-
8 ing equity and underrepresented stakeholders.

9 (b) The director shall appoint members that reflect the geographic diversity of this state
10 and the interests of both large and small communities.

11 (2) The advisory committee shall advise the department and stewardship organizations
12 regarding:

13 (a) Carpet stewardship program plans submitted to the department under section 7 of
14 this 2021 Act and plan amendments submitted under section 9 of this 2021 Act;

15 (b) Annual reports submitted under section 15 of this 2021 Act;

16 (c) Audits of the stewardship organization conducted pursuant to section 15 of this 2021
17 Act; or

18 (d) Other matters related to the collection and environmentally sound management of
19 discarded carpet in this state.

20 (3) The council may adopt recommendations upon a vote of a majority of the members
21 of the council.

22 (4) The advisory committee shall meet at least once quarterly through calendar year 2024
23 and twice annually in calendar year 2025 or later and may meet more frequently as necessary
24 to perform the duties of the committee.

25 (5) The Department of Environmental Quality shall provide staff support for the task
26 force.

27 (6) Members of the advisory committee are entitled to compensation and expenses in the
28 manner and amounts provided in ORS 292.495.

29 SECTION 6. Stewardship organization responsibilities. (1)(a) Each producer shall,
30 through a stewardship organization, implement and finance a statewide carpet stewardship
31 program that:

32 (A) Manages carpet by reducing its waste generation;

33 (B) Promotes carpet recycling and reuse;

34 (C) Provides for negotiation and execution of agreements to collect, transport, process
35 and market the discarded carpet for end-of-life recycling, reuse or disposal; and

36 (D) Is free to the consumer and adequate to serve the needs of businesses and individuals
37 in all areas of this state on an ongoing basis.

38 (b) A stewardship organization may be created and financed by one or more producers.

39 (2) A stewardship organization shall make available on the stewardship organization's
40 website and on request:

41 (a) A list of brands owned by or associated with all producers participating in the or-
42 ganization;

43 (b) Information on available collection opportunities; and

44 (c) Any other information necessary for retailers and distributors to comply with section
45 3 of this 2021 Act.

1 (3) A stewardship organization shall:

2 (a) Establish and maintain collection sites;

3 (b) At no charge, provide for storage containers at collection sites and transportation and
4 recycling of discarded carpet from collection sites;

5 (c) Provide financial compensation to the owners or operators of collection sites for the
6 reasonable actual costs of collecting and managing discarded carpet;

7 (d) Offer organizations that recycle or reuse discarded carpet the opportunity to partic-
8 ipate as collection sites;

9 (e) Prioritize reuse or recycling over energy recovery and disposal and prioritize energy
10 recovery over disposal in providing for the environmentally sound management and final
11 disposition of discarded carpet under the carpet stewardship program; and

12 (f) Notify retailers that sell or offer for sale carpet made or sold by producers or dis-
13 tributors registered with the Department of Environmental Quality about the carpet
14 stewardship program and provide retailers with information necessary to comply with sec-
15 tion 3 of this 2021 Act.

16 (5)(a) A stewardship organization shall establish a funding mechanism that will generate
17 sufficient funds to carry out the stewardship organization's carpet stewardship program,
18 including the administrative, operational and capital costs of the program. The funding
19 mechanism must be structured with different rates to:

20 (A) Take into account the financial and environmental burden that particular carpet has
21 on the carpet stewardship program;

22 (B) Be differentiated by type of material, recycling cost, recycled content and other
23 qualities related to toxicity, resource use and recyclability;

24 (C) Incentivize the reduction of toxins associated with carpet production;

25 (D) Incentivize the use of post-consumer recycled content in carpet; and

26 (E) Discourage the use of carpet materials that pose challenges for recyclers.

27 (b) The rates established under this subsection may be based on weight or square yards
28 of carpet sold, the market share of the producer or other unit of measurement.

29 (6) A stewardship organization must, subject to the approval of the department, establish
30 progressively increasing performance goals for the collection rate, recycling rate and reuse
31 rate. The performance goals must be designed to achieve the following benchmarks:

32 (a) For the recycling rate:

33 (A) For calendar year _____, a recycling rate of 25 percent.

34 (B) For calendar year _____, a recycling rate of 50 percent, 10 percent of which must
35 be closed-loop recycling.

36 (C) For calendar year _____, a recycling rate of 75 percent, 40 percent of which must
37 be closed-loop recycling.

38 (b) For the collection rate and reuse rate, benchmarks proposed by the stewardship or-
39 ganization and approved by the department for calendar years _____, _____ and
40 _____.

41 (7) A stewardship organization shall establish, subject to approval by the department,
42 progressively increasing post-consumer content goals for all carpet sold in this state for
43 calendar years _____, _____ and _____.

44 (8) A stewardship organization must implement a carpet stewardship program as de-
45 scribed in a plan or amended plan within 90 days after the plan or amended plan is approved

1 under section 8 of this 2021 Act.

2 (9) A stewardship organization shall retain all records related to implementation of a
3 carpet stewardship program for not less than seven years and make the records available for
4 inspection by the department upon request.

5 (10)(a) A stewardship organization must fund a carpet stewardship program at a level
6 determined by the Environmental Quality Commission by rule.

7 (b) The commission may adopt by rule a minimum level of funding for a carpet
8 stewardship program. In developing the minimum level of funding, the commission may take
9 into account program costs in other jurisdictions' approved stewardship plans, annual re-
10 ports, audits or other information.

11 **SECTION 7. Stewardship program plan.** (1) In a form and manner prescribed by the De-
12 partment of Environmental Quality, a stewardship organization shall submit to the depart-
13 ment a plan for the development and implementation of a carpet stewardship program. The
14 plan must:

15 (a) Describe how the stewardship organization will manage and administer a carpet
16 stewardship program.

17 (b) Demonstrate that the stewardship organization has the management capability and
18 financial capacity to establish and operate a carpet stewardship program.

19 (c) Include the identity of and contact information for the stewardship organization and
20 each producer registered with the organization, including a designated program manager for
21 the stewardship organization.

22 (d) Include a list of brands owned by or associated with all producers participating in the
23 stewardship organization.

24 (e) Describe the methods by which discarded carpet will be collected.

25 (f) Describe how the stewardship organization will provide for the environmentally sound
26 management of discarded carpet, including, at a minimum:

27 (A) Identification of the proposed collectors, sorters, processors, transporters and
28 recyclers that the stewardship organization will contract with to collect, sort, transport and
29 process discarded carpet and the recycling methods that the recyclers will use; and

30 (B) A description of the auditing, inspection and other procedures that will be used by
31 the stewardship organization and the frequency at which the procedures will be implemented
32 to ensure that all entities the stewardship organization contracts with to implement the
33 carpet stewardship program engage in environmentally sound management practices.

34 (g) Provide for convenient collection service as described in section 10 of this 2021 Act.

35 (h) Propose quantifiable annual performance goals for the collection rate, recycling rate
36 and reuse rate of discarded carpet that increase over the life of the program and that, at a
37 minimum, meet the benchmarks described in section 6 of this 2021 Act.

38 (i) Describe how the effectiveness of the stewardship program will be monitored, evalu-
39 ated and maintained.

40 (j) Propose quantifiable minimum post-consumer recycled content goals as described in
41 section 6 of this 2021 Act.

42 (k) Provide the names and locations of discarded carpet collection sites.

43 (L) Describe the methods to be used to reuse or recycle discarded carpet to ensure that
44 the components, to the extent feasible, are transformed or remanufactured into finished
45 products for use.

1 (m) Describe the methods to be used to manage or dispose of discarded carpet that can-
2 not be recycled or reused.

3 (n) Describe educational materials and programs provided by the stewardship organiza-
4 tion to consumers, retailers, collection sites and transporters of discarded carpet statewide,
5 including a description of:

6 (A) How the educational materials and programs will be evaluated for effectiveness;

7 (B) How the educational materials and programs will provide information about collection
8 opportunities for discarded carpet, promote the source reduction, reuse and recycling of
9 carpet and promote the importance of carpet recycling in protecting the environment and
10 creating jobs;

11 (C) How the stewardship organization will implement a program to train carpet installers
12 on how to properly manage discarded carpet, including how to maintain carpet quality and
13 avoid contamination; and

14 (D) How the stewardship organization will provide information to collection sites on the
15 proper storage of carpet so as to avoid impacts that will reduce the value of the carpet, in-
16 cluding keeping discarded carpet in a location that allows it to remain dry and ensuring
17 containers holding collected carpet are free of all non-carpet discarded items.

18 (o) Describe carpet design and manufacturing changes that the producers are considering
19 or have implemented in order to reduce toxicity, water use or energy use associated with the
20 production of carpet and efforts to increase the recycled content, recyclability or longevity
21 of carpets and how those changes are accounted for by the funding mechanism described in
22 section 6 of this 2021 Act.

23 (p) Provide baseline information, for the most current year for which data is available,
24 on the amount of square feet and pounds of carpet sold in this state, by type of polymer or
25 nonpolymer material used to make the carpet.

26 (q) Include a plan for a stewardship organization website and toll-free telephone number
27 through which a consumer can easily learn how and where to return discarded carpet for
28 recycling.

29 (r) Include an evaluation of the status of end markets for discarded carpet and what, if
30 any, additional end markets are needed to improve the functioning of the program.

31 (s) Describe methods that will be used by the stewardship organization to coordinate
32 activities with existing recycling programs, including existing nonprofit organizations that
33 are carpet recyclers, to further the environmentally sound management of discarded carpet.

34 (t) Describe procedures for identifying substantial or material changes to the system for
35 collecting discarded carpet for which a plan amendment will be required under section 9 of
36 this 2021 Act.

37 (u) Describe the process by which an independent auditor will be selected for the pur-
38 poses of section 16 of this 2021 Act.

39 (v) Include an anticipated annual operating budget for the carpet stewardship program
40 for two years of operation of the program, beginning with the year in which the plan is
41 submitted to the department. The anticipated annual operating budget must include, but
42 need not be limited to:

43 (A) The collection, transportation and processing of program carpet;

44 (B) The costs of compensating collection sites for their reasonable actual costs to collect
45 and manage discarded carpet as described in section 11 of this 2021 Act;

1 (C) The administrative costs of the carpet stewardship program to the stewardship or-
 2 ganization;

3 (D) The anticipated amount of moneys that the stewardship organization will hold in
 4 unallocated reserve funds for the carpet stewardship program; and

5 (E) The annual fee to be paid to the department pursuant to section 14 of this 2021 Act.

6 (w) Any other information required by the Environmental Quality Commission by rule.

7 (2)(a) A plan submitted under this section and approved by the Department of Environ-
 8 mental Quality under section 8 of this 2021 Act is valid for five years.

9 (b) At least 180 days before the expiration of a plan approved under section 8 of this 2021
 10 Act, the stewardship organization shall submit a new plan to the department to be approved
 11 for an additional five years. A plan submitted under this paragraph must include proposed
 12 improvements based on the results of the study conducted under section 15 of this 2021 Act.

13 (3) A carpet stewardship organization that submits a plan pursuant to this section shall
 14 consult with retailers and wholesalers in the development of the plan in order to minimize
 15 the impacts of the plan on retailers and wholesalers.

16 SECTION 8. Approval. (1)(a) The Department of Environmental Quality shall approve,
 17 reject or request additional information for a plan submitted under section 7 of this 2021 Act
 18 or an amendment to an approved plan submitted under section 9 of this 2021 Act no later
 19 than 90 days after the date on which the department receives the plan or amendment from
 20 the stewardship organization.

21 (b) Before approving, approving with modifications or rejecting a plan or amendment
 22 under this section, the department shall seek a recommendation on the plan or amendment
 23 from the carpet stewardship advisory committee. The carpet stewardship advisory committee
 24 shall recommend whether the department should approve or reject the plan or amendment
 25 or request additional information.

26 (2)(a) If the department rejects or requests additional information for a plan or amend-
 27 ment, the department must provide the stewardship organization with the reasons, in writ-
 28 ing, that the plan or amendment does not meet the requirements of section 8 of this 2021
 29 Act. A stewardship organization must submit a revised plan or amendment or additional in-
 30 formation within 60 days of the rejection or request for additional information. The depart-
 31 ment shall review and approve or reject a plan or amendment within 45 days of receiving a
 32 revised plan or amendment or additional information.

33 (b) If the department rejects a revised plan or amendment submitted under paragraph
 34 (a) of this subsection, the stewardship organization must submit a new revised plan or re-
 35 vised amendment.

36 (c) If the department determines that a revised plan or revised amendment submitted
 37 under paragraph (b) of this subsection does not meet the requirements of section 7 of this
 38 2021 Act, the department shall modify the revised plan or revised amendment as necessary
 39 to meet the requirements of section 8 of this 2021 Act and approve the revised plan or re-
 40 vised amendment.

41 (3) If the department rejects or requests additional information for a plan or plan
 42 amendment, a stewardship organization shall continue to operate a previously approved plan
 43 until the department approves a new plan or plan amendment.

44 (4) Prior to submitting a plan or amendment for approval under this section, a
 45 stewardship organization shall provide the plan or amendment to the carpet stewardship

1 advisory committee for review. The stewardship organization shall, to the extent feasible,
 2 incorporate the committee's recommendations into the plan or amendment before submitting
 3 the plan or amendment to the department. If the stewardship organization is unable to in-
 4 corporate the recommendations, the organization shall provide a written explanation to the
 5 department and the carpet stewardship advisory committee. The explanation must detail
 6 whether the stewardship organization or producers plan to incorporate the recommendations
 7 into a subsequent carpet stewardship program plan or amendment.

8 (5)(a) Upon a written finding described in paragraph (b) of this subsection, and after
 9 providing the stewardship organization an opportunity to respond to the finding, the depart-
 10 ment may, in addition to any other penalty provided by law:

11 (A) Revoke approval of a plan or plan amendment under this section or require a
 12 stewardship organization to resubmit a plan or plan amendment; or

13 (B) Require a stewardship organization to meet reporting requirements, in addition to
 14 those required under section 15 of this 2021 Act, as the Environmental Quality Commission
 15 determines by rule or order may be appropriate to avoid future violations.

16 (b) Paragraph (a) of this subsection applies only if the department finds:

17 (A) That a stewardship organization has violated a provision of sections 1 to 19 of this
 18 2021 Act; and

19 (B) That the violation has a material impact on the implementation and administration
 20 of a plan previously approved by the department under this section.

21 **SECTION 9. Plan amendments.** (1)(a) A stewardship organization shall submit to the
 22 Department of Environmental Quality for approval under section 8 of this 2021 Act an
 23 amendment to an approved carpet stewardship plan if, at any time:

24 (A) There is a substantial or material change to the system for collecting discarded car-
 25 pet; or

26 (B) The department finds that the stewardship organization is not meeting the require-
 27 ments of sections 1 to 19 of this 2021 Act.

28 (b) If the department makes a finding described in paragraph (a)(B) of this subsection
 29 based on the failure of a stewardship organization to meet performance goals described in
 30 section 6 of this 2021 Act or collection convenience standards described in section 10 of this
 31 2021 Act, the department may direct the manner in which the stewardship organization
 32 amends the plan, including directing the stewardship organization to increase educational
 33 materials and programs and improve collection accessibility.

34 (2) Not less than once per month, a stewardship organization shall provide written notice
 35 to the department of any changes made during the previous month to an approved carpet
 36 stewardship program plan that are changes for which an amendment is not required under
 37 subsection (1) of this section. Changes subject to notice under this subsection include, but
 38 are not limited to:

39 (a) A change in the location or the number of permanent collection sites identified in the
 40 plan;

41 (b) A change in the producers that are participating in the stewardship organization; or

42 (c) A change in the recyclers that manage the discarded carpet collected under the car-
 43 pet stewardship program.

44 (3) The department shall approve any change for which notice is given under subsection
 45 (2) of this section if the department determines that the change has no material impact on

1 the implementation and administration of a plan that has been previously approved by the
 2 department under section 8 of this 2021 Act.

3 **SECTION 10. Collection convenience standards.** (1) A stewardship program must provide
 4 for convenient collection service by, at a minimum:

5 (a) Ensuring that there is at least one permanent collection site, to be staffed and open
 6 at least six days per week, in every county with a population of at least 10,000 people and an
 7 additional 25 collection sites distributed throughout this state in a manner that extends
 8 convenient collection service to residents throughout this state;

9 (b) Holding at least one collection event per year in counties that have a population of
 10 less than 10,000 people and that do not have a permanent collection site;

11 (c) Providing that permanent collection sites in counties with a population of less than
 12 10,000 people are staffed and open at least one day per week; and

13 (d) Providing a convenient method for access to a list of collection opportunities.

14 (2) A plan may provide for methods for providing convenient collection service that are
 15 alternative methods to those provided for in subsection (1) of this section if, based on a ge-
 16 ographic information systems analysis, the alternative methods will, as determined by the
 17 Department of Environmental Quality, result in providing service throughout this state that
 18 meets or exceeds the convenience of service provided for under subsection (1) of this section.

19 **SECTION 11. Requirements for collectors.** (1) A collector:

20 (a) May not charge for the acceptance of discarded carpet at the point of collection.

21 (b) Must accept all types and brands of carpet.

22 (c) Must abide by the best management practices for collection of discarded carpet that
 23 are provided by a stewardship organization's plan approved by the Department of Environ-
 24 mental Quality under section 8 of this 2021 Act.

25 (d) Must ensure that discarded carpet is collected according to standards that include,
 26 but are not limited to:

27 (A) Keeping discarded carpet in a location that allows it to remain dry at all times.

28 (B) Holding discarded carpet in containers that are free from wastes other than discarded
 29 carpet.

30 (C) Prior to shipment to a recycler, filling containers as follows:

31 (i) Roll off containers must be filled to a minimum of 2.5 tons.

32 (ii) 28-foot trailers must be filled to a minimum of 9 tons.

33 (iii) 53 foot trailers must be filled to a minimum of 13 tons.

34 (e) Must permit a recycler's designated container to be housed on site for loading by the
 35 collector for pickup at the collection site.

36 (2)(a) A collection site shall notify the recycler and the stewardship organization when
 37 the recycler's designated container is full. If the container is not removed within three days
 38 of the notice, the owner or operator of the collection site shall send a second notice to the
 39 recycler and the stewardship organization.

40 (b) If a container is not emptied within seven days of a second notice under paragraph
 41 (a) of this subsection, the owner or operator of the collection site may dispose of the carpet
 42 in a landfill.

43 (c) A collection site is entitled to reimbursement from a recycler or stewardship organ-
 44 ization for carpet disposed of in a landfill as described in paragraph (b) of this subsection.

45 (d) The Department of Environmental Quality may find a recycler or stewardship or-

1 organization that fails to empty a container after receiving the notices described in paragraph
2 (a) of this subsection to be in violation of sections 1 to 19 of this 2021 Act.

3 (3)(a) A stewardship organization shall pay collection sites for the following costs:

4 (A) Reimbursement for reasonable costs to adapt sites for discarded carpet collection,
5 including but not limited to one-time costs for constructing the needed structure to make
6 the collection of carpet safe and convenient.

7 (B) Financial compensation for all carpet collected under conditions as required by
8 sections 1 to 19 of this 2021 Act and loaded into collection trailers at the collector's site.

9 (b) Economic support for carpet collectors under this subsection may be revised as pro-
10 vided in carpet stewardship program plans submitted to the Department of Environmental
11 Quality under section 7 of this 2021 Act.

12 (4)(a) Except as provided in paragraph (b) of this subsection, a carpet stewardship pro-
13 gram may not penalize the owner or operator of a collection site for contamination in the
14 discarded carpet collected at the site.

15 (b) A stewardship organization may remove a collection site from a carpet stewardship
16 program if the collection site repeatedly ships contaminated discarded carpet to processors.

17 SECTION 12. Recycling required. All discarded carpet removed by installers must be
18 transported to a collection site for recycling.

19 SECTION 13. Department of Environmental Quality Responsibilities. (1) The Department
20 of Environmental Quality shall post on the department's website:

21 (a) The location of all collection sites identified to the department by a stewardship or-
22 ganization in its plans and annual reports;

23 (b) A list of all producers and brands that are registered and in compliance with sections
24 1 to 19 of this 2021 Act;

25 (c) The carpet stewardship program plan and any amended plans approved by the de-
26 partment; and

27 (d) Annual reports submitted under section 15 of this 2021 Act.

28 (2) The department shall meet with the stewardship organization with an approved plan
29 at least annually to review the functioning of the plan and identify components of the plan
30 that need improvement.

31 SECTION 14. Fees. The Department of Environmental Quality shall establish an annual
32 fee to be paid by a stewardship organization that is reasonably calculated to cover the costs
33 to the department to administer, implement, and enforce sections 1 to 19 of this 2021 Act.
34 The department shall provide notice to a stewardship organization no later than _____ of
35 each calendar year of the annual fee for the upcoming calendar year. Fees collected by the
36 department under this section shall be deposited in the State Treasury to the credit of the
37 Carpet Stewardship Fund established under section 18 of this 2021 Act.

38 SECTION 15. Reports. (1) A stewardship organization that implements a carpet
39 stewardship program pursuant to a plan approved by the Department of Environmental
40 Quality under section 8 of this 2021 Act shall, no later than _____ of each year, submit for
41 review and approval to the department and the carpet stewardship advisory committee a
42 report on the activities of the program for the preceding calendar year. The annual report
43 must:

44 (a) Describe the methods used to collect, transport and process discarded carpet in re-
45 gions of this state and list the persons used to collect, transport and process discarded car-

1 **pet in regions of this state.**

2 **(b) Describe the collection infrastructure and list all discarded carpet collection sites in**
 3 **this state.**

4 **(c) Identify the facilities processing carpet, the weight processed at each facility and each**
 5 **facility's processing capacity.**

6 **(d) Provide the amount of carpet sold by producers participating in the carpet**
 7 **stewardship program in this state during the reporting period, measured in square feet and**
 8 **pounds, and sorted by polymer type or nonpolymer materials.**

9 **(e) Provide the weight of all discarded carpet collected pursuant to the carpet**
 10 **stewardship program during the previous calendar year, sorted by type of collection site or**
 11 **collection event.**

12 **(f) Provide the weight of discarded carpet collected pursuant to the carpet stewardship**
 13 **program for reuse or recycling during the previous calendar year, sorted by type of collection**
 14 **site or collection event and by polymer type or nonpolymer material.**

15 **(g) Include an estimate of the amount of discarded carpet that has been collected for**
 16 **reuse and an evaluation of what the stewardship organization can do to increase the amount**
 17 **of discarded carpet that is reused.**

18 **(h) Provide the weight of carpet materials recycled and the final disposition of carpet**
 19 **materials by weight and material.**

20 **(i) Provide the weight of carpet materials sent for end-of-life management at each of the**
 21 **following:**

22 **(A) Waste-to-energy facilities;**

23 **(B) Landfills; and**

24 **(C) Any other facility.**

25 **(j) Include an evaluation of why the carpet materials sent for disposal were not recycled**
 26 **and a description of efforts that will be taken to increase the recycling rate of carpet mate-**
 27 **rials under the carpet stewardship program.**

28 **(k) Provide the carpet stewardship program's costs and revenues for the previous calen-**
 29 **dar year in a summary financial statement that documents the financing of the carpet**
 30 **stewardship program, including the funding mechanism described in section 6 of this 2021**
 31 **Act.**

32 **(L) Include a summary of the educational materials and programs offered during the**
 33 **previous calendar year and provide examples of educational materials and an evaluation of**
 34 **the effectiveness of the materials and the methods used to disseminate the materials.**

35 **(m) Include an evaluation of the effectiveness of methods and processes used to achieve**
 36 **the goals of the carpet stewardship program, information on progress made toward achieving**
 37 **the goals, an explanation of why any goals were not met during the previous calendar year**
 38 **and any efforts that will be taken to improve progress toward meeting the goals in the fu-**
 39 **ture, if applicable.**

40 **(n) Include a report by an independent certified public accountant, retained by the**
 41 **stewardship organization at the stewardship organization's expense, on the accountant's**
 42 **audit of the stewardship organization's financial statements.**

43 **(o) Include a report on the outcome of audits of entities the stewardship organization**
 44 **contracts with, as provided in section 7 (1)(f)(B) of this 2021 Act.**

45 **(p) Make recommendations for any changes to the carpet stewardship program, including**

1 the potential utility of a ban on disposal of carpet and information relevant to compliance
2 with the plan.

3 (q) Include an updated budget for the upcoming calendar year that follows the budget
4 requirements provided for in section 7 of this 2021 Act.

5 (r) Include a list of the producers participating in the carpet stewardship program during
6 the prior year.

7 (2) In addition to the report required by subsection (1) of this section, a stewardship or-
8 ganization shall:

9 (a) During the third year of implementing a carpet stewardship program according to a
10 plan approved by the department under section 8 of this 2021 Act, in consultation with
11 community organizations, conduct a study evaluating the most effective methods of provid-
12 ing discarded carpet collection services to low-income individuals and multifamily housing
13 structures.

14 (b) Include in the annual report required for the third year of implementing a carpet
15 stewardship program under a plan approved under section 8 of this 2021 Act:

16 (A) A report to the department on the scope of discarded carpet in this state that is not
17 being collected as part of the carpet stewardship program and recommendations on how to
18 direct the discarded carpet to, and include it in, the carpet stewardship program; and

19 (B) A life cycle assessment report of carpet sold in this state.

20 (3)(a) The department may require a stewardship organization to have a performance
21 audit of the carpet stewardship program conducted and to include a report on the perform-
22 ance audit in the next required annual report. A performance audit required under this
23 subsection must conform to audit standards established by nationally recognized entities in-
24 cluding but not limited to the United States Government Accountability Office and the Na-
25 tional Association of State Auditors, Comptrollers and Treasurers. The auditor shall review
26 the implementation of such a plan and assess whether the funding mechanism is sufficient
27 to fund the costs of compliance with sections 1 to 19 of this 2021 Act and whether the carpet
28 stewardship program exceeds such costs. The results of such an audit shall be submitted to
29 the department.

30 (b) Except as provided in paragraph (c) of this subsection, the department may require
31 a performance audit to be conducted under paragraph (a) of this subsection no more than
32 once every three years. The department may not first request a performance audit to be
33 conducted until the third year that a stewardship organization has implemented a carpet
34 stewardship program.

35 (c) The department may require a performance audit to be conducted under paragraph
36 (a) of this subsection less than three years after the last time that a performance audit was
37 conducted if the department determines that the performance audit is warranted based on
38 information contained in a plan amendment submitted to the department for approval under
39 section 8 of this 2021 Act.

40 (4) Prior to submitting a report for approval under this section, a stewardship organiza-
41 tion shall provide the report to the carpet stewardship advisory committee for review. The
42 stewardship organization shall, to the extent feasible, incorporate the committee's recom-
43 mendations into the report before submitting the report to the department. If the
44 stewardship organization is unable to incorporate the recommendations, the organization
45 shall provide a written explanation to the department and the stewardship advisory com-

1 **mittee. The explanation must detail whether the carpet stewardship organization or produc-**
 2 **ers plan to incorporate the recommendations into a subsequent report.**

3 **SECTION 16. Power to enter. The Department of Environmental Quality shall have the**
 4 **power to enter upon and inspect, at any reasonable time, any public or private property,**
 5 **premises, or place for the purpose of investigating either an actual or suspected violation**
 6 **of sections 1 to 19 of this 2021 Act.**

7 **SECTION 17. Antitrust. The Legislative Assembly declares that the collaboration of pro-**
 8 **ducers and stewardship organizations to develop and implement carpet stewardship programs**
 9 **is in the best interests of the public. Therefore, the Legislative Assembly declares its intent**
 10 **that persons participating in carpet stewardship programs as required by sections 1 to 19 of**
 11 **this 2021 Act shall be exempt from state antitrust laws. The Legislative Assembly further**
 12 **declares its intent to provide immunity to persons for participating in carpet stewardship**
 13 **programs as required by sections 1 to 19 of this 2021 Act from federal antitrust laws. This**
 14 **section does not authorize any person to engage in activities or to conspire to engage in ac-**
 15 **tivities that constitute per se violations of state or federal antitrust laws that are not au-**
 16 **thorized under sections 1 to 19 of this 2021 Act.**

17 **SECTION 18. Carpet Stewardship Fund. The Carpet Stewardship Fund is established,**
 18 **separate and distinct from the General Fund. The Carpet Stewardship Fund consists of**
 19 **moneys deposited into the fund under sections 1 to 19 of this 2021 Act and may include**
 20 **moneys appropriated, allocated, deposited or transferred to the fund by the Legislative As-**
 21 **sembly or otherwise. All moneys in the Carpet Stewardship Fund are continuously appropri-**
 22 **ated to the Department of Environmental Quality and may be used only to pay the costs of**
 23 **administering, implementing and enforcing sections 1 to 19 of this 2021 Act.**

24 **SECTION 19. Rules. The Environmental Quality Commission may adopt rules as neces-**
 25 **sary to implement sections 1 to 19 of this 2021 Act.**

26 **SECTION 20. ORS 459.995 is amended to read:**

27 459.995. (1) Except as provided in subsection (2) of this section, in addition to any other penalty
 28 provided by law:

29 (a) Any person who violates ORS 459.205, 459.270, 459.272, 459.386 to 459.405, 459.705 to 459.790,
 30 459A.005 to 459A.620, 459A.310 to 459A.335, 459A.675 to 459A.685 or 646A.080, or any rule or order
 31 of the Environmental Quality Commission pertaining to the disposal, collection, storage or reuse or
 32 recycling of solid wastes, as defined by ORS 459.005, or any rule or order pertaining to the disposal,
 33 storage or transportation of waste tires, as defined by ORS 459.705, or any rule or order pertaining
 34 to the sale of novelty items that contain encapsulated liquid mercury, incurs a civil penalty not to
 35 exceed \$25,000 per day for each day of the violation.

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

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

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

1 (e) Any retailer that violates the provisions of ORS 459A.825 (1) or (2)(b) **or section 3 of this**
 2 **2021 Act** incurs a civil penalty not to exceed \$100 per day for each day of the violation.

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

5 **(g) Any producer that violates the provisions of section 3 of this 2021 Act incurs a civil**
 6 **penalty not to exceed \$10,000 per day for each day of the violation.**

7 [(g)] **(h)(A)** Any stewardship organization that violates the provisions of ORS 459A.825 (2)(a),
 8 459A.827, 459A.830 to 459A.837 or 459A.842 **or sections 1 to 19 of this 2021 Act** incurs a civil
 9 penalty not to exceed \$1,000 per day for each day of the violation.

10 **(B) Civil penalties imposed under this paragraph against a stewardship organization as**
 11 **defined in section 2 of this 2021 Act are joint and several obligations of the stewardship or-**
 12 **ganization and each producer participating in the stewardship organization.**

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

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

19 **SECTION 21.** (1) As used in this section, “carpet,” “closed-loop recycling,” “discarded
 20 carpet” and “producer” have the meanings given those terms in section 2 of this 2021 Act.

21 **(2) Beginning in calendar year _____, at least 35 percent of carpet purchased by state**
 22 **government agencies must be carpet with a minimum of 10 percent by weight post-consumer**
 23 **recycled content from discarded carpet and must comply with the National Science**
 24 **Foundation/American National Standards Institute (NSF/ANSI) 140-2009 Standard, Platinum**
 25 **level. The carpet must be purchased from a producer with a third party certified closed-loop**
 26 **recycling facility.**

27 **(3) In each of the four calendar years succeeding _____, the percentage of carpet with**
 28 **post-consumer recycled content purchased by state government agencies to comply with**
 29 **subsection (2) of this section shall increase by 10 percent from the previous year.**

30 **SECTION 22.** (1) Initial plans for carpet stewardship programs under section 7 of this
 31 **2021 Act must be submitted to the Department of Environmental Quality no later than**
 32 **_____.**

33 **(2) Notwithstanding section 6 (8) of this 2021 Act, a stewardship organization shall im-**
 34 **plement a carpet stewardship program as described in an initial plan submitted pursuant to**
 35 **subsection (1) of this section no later than _____ months after the date on which the initial**
 36 **plan is approved by the department under section 8 of this 2021 Act.**

37 **SECTION 23.** Section 4 of this 2021 Act applies to carpet sold in this state on or after
 38 **January 1, _____.**

39 **SECTION 24.** (1) Sections 1 to 19 of this 2021 Act and the amendments to ORS 459.995
 40 **by section 20 of this 2021 Act become operative on January 1, _____.**

41 **(2) The Environmental Quality Commission and the Department of Environmental Qual-**
 42 **ity may take any action before the operative date specified in subsection (1) of this section**
 43 **that is necessary for the commission and the department to exercise, on and after the op-**
 44 **erative date specified in subsection (1) of this section, all of the duties, functions and powers**
 45 **conferred on the commission and the department by sections 1 to 19 of this 2021 Act and the**

1 amendments to ORS 459.995 by section 20 of this 2021 Act.

2 **SECTION 25. Captions.** The section captions used in this 2021 Act are provided only for
3 the convenience of the reader and do not become part of the statutory law of this state or
4 express any legislative intent in the enactment of this 2021 Act.

5 **SECTION 26. Effective date.** This 2021 Act takes effect on the 91st day after the date on
6 which the 2021 regular session of the Eighty-first Legislative Assembly adjourns sine die.

7
