

House Bill 2871

Sponsored by Representative EVANS (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 sales of certain products about which recyclability claim has been made. Permits sales of certain products if recyclability claims meet specified standards. Authorizes Department of Environmental Quality to impose civil penalty for violation of recyclability claim provisions.

Directs department to monitor efforts to develop national labeling standards for recyclability claims. Permits department to take reasonable actions to support those efforts consistent with state law. Authorizes Environmental Quality Commission to adopt rules to conform state recyclability claim requirements with requirements in federal law.

A BILL FOR AN ACT

1
2 Relating to recyclability claims; creating new provisions; and amending ORS 459.995.

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

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

5 (a) **"Beverage container" has the meaning given that term in ORS 459A.700.**

6 (b) **"Chasing arrows symbol" means an equilateral triangle formed by three arrows,**
7 **curved at their midpoints, depicting a clockwise path, with a short gap separating the apex**
8 **of each arrow from the base of the adjacent arrow, or a similar symbol that is likely to be**
9 **interpreted by a consumer as an indication of recyclability.**

10 (c) **"Covered product" has the meaning given that term in ORS 459A.863.**

11 (d) **"Distributor" has the meaning given that term in ORS 459A.700.**

12 (e) **"Importer" has the meaning given that term in ORS 459A.700.**

13 (f) **"Manufacturer" has the meaning given that term in ORS 459A.700.**

14 (g) **"Producer" has the meaning given that term in ORS 459A.863.**

15 (h)(A) **"Recyclability claim" means a claim, made in advertising or on a product or its**
16 **label, that the product or its packaging is recyclable, including labeling a product with the**
17 **chasing arrows symbol.**

18 (B) **"Recyclability claim" does not include:**

19 (i) **A resin identification code surrounded by a solid equilateral triangle.**

20 (ii) **A chasing arrows symbol surrounded by a circle with a slash mark through it.**

21 (i) **"Resin identification code" means a number that corresponds with a type of plastic**
22 **resin used to make a product or packaging.**

23 (2) **A producer may not sell, offer to sell or distribute in or into this state a covered**
24 **product about which a recyclability claim has been made unless the covered product is listed**
25 **as suitable for recycling collection in this state by the Environmental Quality Commission**
26 **under ORS 459A.914 and labeled with a recyclability claim that conforms to standards**
27 **adopted by the commission under subsection (4) of this section.**

28 (3) **A manufacturer, distributor or importer may not sell, offer to sell or distribute in or**

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 into this state a beverage container about which a recyclability claim has been made unless
 2 the beverage container is labeled with a recyclability claim that conforms to standards
 3 adopted by the commission under subsection (4) of this section.

4 (4) The commission shall adopt by rule standards for recyclability claims. Standards
 5 adopted under this subsection must include provisions requiring that:

6 (a) Text appearing with the recyclability claim is set off in a box by use of hairlines and
 7 must be all black or one-color type, printed on a white or other neutral contrasting back-
 8 ground, unless doing so is not practical.

9 (b) Principal text should be printed in at least 8-point type with 1 point of leading. Foot-
 10 notes may be in no smaller than 6-point type with 1 point leading. Text may be kerned by
 11 as much as -4 if required by a particular format.

12 (c) A chasing arrows symbol, if used, must be at least .6 centimeters wide.

13 (d) Clear instructions are provided if a consumer must take action before recycling the
 14 covered product or beverage container.

15 (e) Any covered product that has not been identified as appropriate to be collected
 16 through a commingled recycling program contain instructions for how to recycle the covered
 17 product. Instructions may include “drop-off recycling only,” “recycle separately” or a simi-
 18 lar statement.

19 **SECTION 2.** Section 1 of this 2023 Act is amended to read:

20 **Sec. 1.** (1) As used in this section:

21 (a) “Beverage container” has the meaning given that term in ORS 459A.700.

22 (b) “Chasing arrows symbol” means an equilateral triangle formed by three arrows, curved at
 23 their midpoints, depicting a clockwise path, with a short gap separating the apex of each arrow from
 24 the base of the adjacent arrow, or a similar symbol that is likely to be interpreted by a consumer
 25 as an indication of recyclability.

26 (c) “Covered product” has the meaning given that term in ORS 459A.863.

27 (d) “Distributor” has the meaning given that term in ORS 459A.700.

28 (e) “Importer” has the meaning given that term in ORS 459A.700.

29 (f) “Manufacturer” has the meaning given that term in ORS 459A.700.

30 (g) “Producer” has the meaning given that term in ORS 459A.863.

31 (h)(A) “Recyclability claim” means a claim, made in advertising or on a product or its label, that
 32 the product or its packaging is recyclable, including labeling a product with the chasing arrows
 33 symbol.

34 (B) “Recyclability claim” does not include:

35 (i) A resin identification code surrounded by a solid equilateral triangle.

36 (ii) A chasing arrows symbol surrounded by a circle with a slash mark through it.

37 (i) “Resin identification code” means a number that corresponds with a type of plastic resin used
 38 to make a product or packaging.

39 (j) “Smart labeling technology” means labeling technology that allows consumers to ac-
 40 cess information beyond the words and symbols contained on the physical label.

41 (2) A producer may not sell, offer to sell or distribute in or into this state a covered product
 42 about which a recyclability claim has been made unless the covered product is listed as suitable for
 43 recycling collection in this state by the Environmental Quality Commission under ORS 459A.914 and
 44 labeled with a recyclability claim that conforms to standards adopted by the commission under
 45 subsection (4) of this section.

1 (3) A manufacturer, distributor or importer may not sell, offer to sell or distribute in or into this
2 state a beverage container about which a recyclability claim has been made unless the beverage
3 container is labeled with a recyclability claim that conforms to standards adopted by the commission
4 under subsection (4) of this section.

5 (4) The commission shall adopt by rule standards for recyclability claims. Standards adopted
6 under this subsection must include provisions requiring that:

7 (a) Text appearing with the recyclability claim is set off in a box by use of hairlines and must
8 be all black or one-color type, printed on a white or other neutral contrasting background, unless
9 doing so is not practical.

10 (b) Principal text should be printed in at least 8-point type with 1 point of leading. Footnotes
11 may be in no smaller than 6-point type with 1 point leading. Text may be kerned by as much as -4
12 if required by a particular format.

13 (c) A chasing arrows symbol, if used, must be at least .6 centimeters wide.

14 (d) Clear instructions are provided if a consumer must take action before recycling the covered
15 product or beverage container.

16 (e) Any covered product that has not been identified as appropriate to be collected through a
17 commingled recycling program contain instructions for how to recycle the covered product. In-
18 structions may include “drop-off recycling only,” “recycle separately” or a similar statement.

19 **(f) Covered products and beverage containers be labeled with smart labeling technology**
20 **that meets standards specified by the commission.**

21 **SECTION 3. (1) The amendments to section 1 of this 2023 Act by section 2 of this 2023**
22 **Act become operative on July 1, 2030.**

23 **(2) The Department of Environmental Quality and the Environmental Quality Commis-**
24 **sion may take any action before the operative date specified in subsection (1) of this section**
25 **that is necessary to enable the department and the commission to exercise, on and after the**
26 **operative date specified in subsection (1) of this section, all the duties, functions and powers**
27 **conferred on the department and the commission by the amendments to section 1 of this 2023**
28 **Act by section 2 of this 2023 Act.**

29 **SECTION 4. (1) The Department of Environmental Quality shall monitor any efforts by**
30 **Congress or an administrative agency of the United States to develop a federal law that es-**
31 **tablishes national labeling standards for recyclability claims. The department may take any**
32 **reasonable actions to support the development of federal labeling requirements for**
33 **recyclability claims that are consistent with section 1 of this 2023 Act.**

34 **(2) No later than 180 days after the adoption of a federal law that establishes national**
35 **labeling standards for recyclability claims, the department shall provide a report to the**
36 **Legislative Assembly in the manner provided by ORS 192.245. The report must include rec-**
37 **ommendations for rules to conform the requirements of section 1 of this 2023 Act, or rules**
38 **adopted by the Environmental Quality Commission under section 1 of this 2023 Act, with the**
39 **requirements of the federal law.**

40 **(3) Notwithstanding section 1 of this 2023 Act, the commission may adopt rules as nec-**
41 **essary to conform the requirements of section 1 of this 2023 Act, or rules adopted by the**
42 **commission under section 1 of this 2023 Act, with the requirements of any federal law that**
43 **establishes national labeling standards for recyclability claims.**

44 **(4) As far as is practicable, the department shall monitor efforts by other west coast**
45 **states to develop lists of materials or products that are appropriate for recycling collection**

1 **and take any reasonable actions to promote consistency between those lists and similar lists**
 2 **in Oregon.**

3 **SECTION 5.** ORS 459.995, as amended by section 15, chapter 102, Oregon Laws 2022, is
 4 amended to read:

5 459.995. (1) Except as provided in subsection (2) of this section, in addition to any other penalty
 6 provided by law:

7 (a) Any person who violates ORS 459.205, 459.270, 459.272, 459.386 to 459.405, 459.705 to 459.790,
 8 459A.005 to 459A.620, 459A.310 to 459A.335, 459A.860 to 459A.975 or 646A.080, or any rule or order
 9 of the Environmental Quality Commission pertaining to the disposal, collection, storage or reuse or
 10 recycling of solid wastes, as defined by ORS 459.005, or any rule or order pertaining to the disposal,
 11 storage or transportation of waste tires, as defined by ORS 459.705, or any rule or order pertaining
 12 to the sale of novelty items that contain encapsulated liquid mercury, incurs a civil penalty not to
 13 exceed \$25,000 per day for each day of the violation.

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

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

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

24 (e) Any retailer that violates the provisions of ORS 459A.825 (1) or (2)(b) or section 3, chapter
 25 102, Oregon Laws 2022, incurs a civil penalty not to exceed \$100 per day for each day of the vio-
 26 lation.

27 (f) Any producer or renovator that violates the provisions of ORS 459A.825 (1) or section 3,
 28 chapter 102, Oregon Laws 2022, incurs a civil penalty not to exceed \$1,000 per day for each day of
 29 the violation.

30 (g) Any stewardship organization that violates the provisions of ORS 459A.825 (2)(a), 459A.827,
 31 459A.830 to 459A.837 or 459A.842 or sections 1 to 14, chapter 102, Oregon Laws 2022, incurs a civil
 32 penalty not to exceed \$1,000 per day for each day of the violation.

33 **(h) Any person that violates section 1 of this 2023 Act, or a rule adopted by the com-**
 34 **mission under section 1 or 4 of this 2023 Act, incurs a civil penalty not to exceed \$_____**
 35 **per day for each day of the violation.**

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

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

42 **SECTION 6.** (1) **Section 1 of this 2023 Act and the amendments to ORS 459.995 by section**
 43 **5 of this 2023 Act become operative on July 1, 2025.**

44 **(2) The Department of Environmental Quality and the Environmental Quality Commis-**
 45 **sion may take any action before the operative date specified in subsection (1) of this section**

1 **that is necessary to enable the department and the commission to exercise, on and after the**
2 **operative date specified in subsection (1) of this section, all the duties, functions and powers**
3 **conferred on the department and the commission by section 1 of this 2023 Act and the**
4 **amendments to ORS 459.995 by section 5 of this 2023 Act.**

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