State of Wisconsin
2025 - 2026 LEGISLATURE

LRB-5188/1
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2025 ASSEMBLY BILL 772

December 17, 2025 - Introduced by Representatives SNODGRASS, PALMERI, MIRESSE, ARNEY, CLANCY, DESMIDT, FITZGERALD, JOERS, MADISON, MOORE OMOKUNDE, PRADO, SINICKI, SUBECK and UDELL, cosponsored by Senators LARSON and CARPENTER. Referred to Committee on Environment.

AN ACT ***to create*** 20.370 (6) (pr), 25.46 (1) (pr) and 287.30 of the statutes; **relating to:** packaging reduction and recycling, creating a producer responsibility program, granting rule-making authority, making an appropriation, and providing a penalty.

Analysis by the Legislative Reference Bureau

This bill creates a packaging reduction and recycling program administered by the Department of Natural Resources.

Under the bill, DNR must enter into a contract with a nonprofit organization to serve as a packaging reduction organization (PRO). The PRO must implement a producer responsibility program (program) to reduce packaging and to assess and collect information and payments from producers to pay for the development of packaging reduction programs. DNR must also issue a request for proposals to conduct a statewide packaging reduction, reuse, and recycling needs assessment to identify barriers and opportunities for reducing, reusing, and recycling packaging materials. Subsequent assessments must be conducted at five-year intervals.

The bill provides that, beginning 12 months after the selection of the PRO, a producer may not sell, offer for sale, or distribute into this state a product contained, protected, delivered, presented, or distributed in packaging unless the producer is registered with the PRO and complying with the requirements of the program. A producer must also annually report to the PRO the total amount of

each type of packaging material sold, offered for sale, or distributed for sale into the state by the producer and other information required by the PRO. The bill requires producers to meet specified packaging recycling rates over time, with the ultimate target of 70 percent of packaging being recycled within 12 years of the establishment of the program. The bill also prohibits packaging that is made from or contains specified materials or toxic substances.

DNR must provide an annual grant, from the environmental fund, to the PRO to administer the program. The PRO must 1) register all producers, 2) collect and compile data from producers, 3) collect payments from producers, 4) distribute funds to local units of government and private companies, 5) make recommendations to DNR regarding investments toward packaging reduction, reuse, and recycling, 6) offer technical support to producers, 7) report noncompliant producers, 8) issue an annual report on compliance with the program, and 9) hold public hearings every year to report on implementation of the program and seek public input on improving compliance.

DNR must promulgate rules to administer the packaging reduction and recycling program, including rules to establish fees, to be paid by producers, for specified packaging material types. The fees must be sufficient to cover the cost of 1) collecting, transporting, and managing each type of packaging material once discarded, 2) costs incurred by DNR to administer the packaging reduction and recycling program, 3) costs incurred by the PRO to administer the program, 4) costs associated with conducting recycling needs assessments, and 5) any other expenses DNR determines to be relevant. All payments of fees collected by the PRO must be transferred to DNR and deposited in the environmental fund.

Violations of the requirements of the packaging reduction and recycling program are punishable by a forfeiture of up to $100,000 per day, per violation. Each noncompliant product line that is sold, offered for sale, or distributed to consumers via retail commerce in this state, including through an Internet transaction, is counted as a separate violation.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.370 (6) (pr) of the statutes is created to read:

20.370 **(6)** (pr) *Producer responsibility program.* From the environmental fund, all moneys received under s. 287.30 (4) (b) 4. and (9) (b) to provide the grant under s. 287.30 (9) (a) and the reimbursements under s. 287.30 (9) (c).

SECTION 2. 25.46 (1) (pr) of the statutes is created to read:

25.46 **(1)** (pr) The moneys received under s. 287.30 (4) (b) 4. and (9) (b).

SECTION 3. 287.30 of the statutes is created to read:

287.30 Packaging reduction and recycling. (1) DEFINITIONS. In this section:

(a) "Beverage container" means a container used to contain drinks in liquid form and intended for human consumption.

(b) "Bio-plastic" means plastic produced from biological sources, such as vegetable fats and oils, polysaccharides, sugar, and proteins, or other materials that are designed to be biodegradable.

(c) "Brand" means any mark, word, name, symbol, design, device, or graphical element or a combination thereof, including a registered or unregistered trademark, that identifies and distinguishes a product from other products.

(d) "Covered entity" means any of the following:

1. A single-family residence.

2. A multifamily residence.

3. A public school, as defined in s. 115.01 (1), a private school, as defined in s. 115.001 (3r), a charter school, as defined in s. 115.001 (1), or a tribal school, as defined in s. 115.001 (15m).

4. A nonprofit corporation or institution such as a university, hospital, or other nonprofit or institutional facility.

5. A for-profit business such as a retail store, restaurant, or other commercial property.

6. A state agency, political subdivision, public entity, or other governmental unit.

(e) "Discarded" means packaging material that has been used for its intended purpose and is no longer needed by consumers, businesses, institutions, and other users and may be managed through reuse, recycling, or disposal.

(f) "Disposal" means all of the following:

1. The landfilling or incineration of packaging material.

2. Energy recovery or energy generation by any means, including combustion, pyrolysis, gasification, solvolysis, thermal desorption, waste-to-fuel, or any other chemical conversion process or molecular conversion process.

3. The use of materials as landfill cover.

(g) "Environmental justice community" means any neighborhood or community that is composed predominantly of persons of color or persons whose income is below the poverty line and that is subject to a disproportionate burden of environmental hazards, including landfills, incinerators, transfer stations, or waste-to-energy facilities.

(h) "Local unit of government" means the governing body of any county, city, village, or town and any sanitary district or other political subdivision of the state authorized to plan or provide for waste management services for a specific geographical area.

(i) "Packaging" means a discrete material or category of material, regardless of recyclability, including paper, plastic, glass, metal, or multi-material that is used for the containment, protection, handling, delivery, transport, distribution, or presentation of another product that is sold, offered for sale, imported, or distributed into this state. "Packaging" does not include any of the following:

1. Medical devices and packaging that are included with products regulated

as a drug, medical device, or dietary supplement by the federal food and drug administration under 21 USC 321 et seq. or 21 CFR Part 111.

2. Animal biologics, including vaccines, bacterins, antisera, diagnostic kits, and other products of biological origin, and other covered materials regulated by the federal department of agriculture under 21 USC 151 to 159.

3. Packaging regulated under 7 USC 136 et seq.

4. Beverage containers subject to a returnable container deposit.

(j) "Packaging reduction organization" means a nonprofit entity contracted by the department to collect producer payment of fees, assist producers with compliance with the requirements of this section, provide technical assistance to producers, and implement the producer responsibility program.

(k) "Plastic" means a synthetic or semi-synthetic material made from linking monomers derived from fossil fuel or biological sources through a chemical reaction to create a polymer chain that can be molded, extruded, or otherwise shaped into pellets, objects, films, or filaments, whether alone or in combination with chemical additives, including plasticizers, stabilizers, colorants, or flame retardants.

(L) "Post-consumer recycled material" means new material produced using material resulting from the recovery, separation, collection, and reprocessing of material that would otherwise be disposed of or processed as waste and that was originally sold for consumption. "Post-consumer recycled material" does not include post-industrial material or pre-consumer material, or material created by means of advanced recycling, chemical recycling, combustion, gasification, incineration, pyrolysis, solvolysis, thermal desorption, waste-to-energy, waste-to-fuel, or any other chemical or molecular conversion process.

(m) "Producer" means all of the following:

1. A person that manufactures or uses in commercial enterprise a product sold, offered for sale, contained, protected, delivered, presented, or distributed in or using packaging into this state under the brand of the manufacturer.

2. A person that is not the manufacturer of a product but that is the owner or licensee of a trademark, regardless of whether the trademark is registered, under which a product is sold, offered for sale, contained, protected, delivered, presented, or distributed in or using packaging.

3. A person that imports a product that is contained, protected, delivered, or presented in packaging into the United States or this state for use in commercial enterprise in this state.

4. A franchisor of a franchise located in this state, except that "producer" does not include the franchisee operating that franchise.

(n) "Producer responsibility program" means the program implemented by the packaging reduction organization, and overseen by the department, to reduce packaging and to assess and collect information and payments from producers to pay for the development of packaging reduction programs.

(o) "Product Line" means a group of related products all marketed under a single brand name that is sold by the same producer to distinguish products from each other for better usability for customers.

(p) "Recyclable" means a product or packaging material that can be sorted by entities that process post-consumer materials created in the state, that has a consistent regional market for purchase by end users in the production of new

products, and that can be recycled with minimal losses of material during processing and manufacturing. "Recyclable" does not include any of the following:

1. Material processed through advanced recycling, chemical recycling, combustion, gasification, incineration, pyrolysis, solvolysis, thermal desorption, waste-to-energy, waste-to-fuel, or any other chemical or molecular conversion process.

2. Material made from plastic processed through composting, aerobic digestion, anaerobic digestion, or otherwise biodegraded in industrial or non-industrial facilities.

(q) "Recycled" means the use of discarded packaging materials or products in the production of a new product or packaging in place of virgin materials. "Recycled" does not include contaminants, residues, and other process losses or material used as landfill cover.

(r) "Recycling" means the series of activities by which material is collected, transported, sorted, processed, and used in industrial feedstocks in place of virgin materials to manufacture new products with minimal loss of material quality and quantity. "Recycling" does not include any of the following:

1. Energy recovery, energy generation, or the creation of hazardous chemicals by any means, including advanced recycling, chemical recycling, combustion, gasification, incineration, pyrolysis, solvolysis, thermal desorption, waste-to-energy, waste-to-fuel, or any other chemical or molecular conversion process.

2. Landfill disposal of discarded material or discarded product component materials, including the use of materials as landfill cover.

3. Composting, aerobic digestion, anaerobic digestion, or biodegradation in industrial or nonindustrial facilities.

(s) "Recycling rate" means the percentage of any given packaging type that is ultimately recycled, calculated as the total weight of packaging that is recycled in a given year in this state divided by the total weight of packaging created in this state.

(t) "Reuse" means the return of packaging back into the economic stream for use in the same kind of application intended for the original packaging, without effectuating a change in the original composition of the packaging, the identity of the product, or the components thereof.

(u) "Reuse and refill system" means a program or set of mechanisms designed to facilitate multiple uses of packaging, including deposits, incentives, curbside collection, collection kiosks, refill stations, dishwashing facilities, and redistribution networks.

(v) "Reusable or refillable packaging and containers" means packaging material and containers that are specifically designed and manufactured to maintain their shape and structure and be materially durable for repeated sanitizing, washing, and reuse.

(w) "Toxic substance" means a chemical or chemical class identified by a state agency, federal agency, international intergovernmental agency, accredited research university, or other scientific entity deemed authoritative by the department on the basis of credible scientific evidence as being any of the following:

1. A chemical or chemical class that is a carcinogen, mutagen, reproductive toxicant, immunotoxin, neurotoxicant, or endocrine disruptor.

2. A chemical or chemical class that is persistent or bioaccumulative.

3. A chemical or chemical class that may harm the normal development of a fetus or child or cause other developmental damage in humans or wildlife.

4. A chemical or chemical class that may harm organs or cause other systemic toxicity.

5. A chemical or chemical class that may have adverse air quality impacts, adverse ecological impacts, adverse soil quality impacts, or adverse water quality impacts.

6. A chemical or chemical class that the department determines has equivalent toxicity to a chemical or chemical class specified in subd. 1., 2., 3., 4., or 5.

(x) "Universal product code" means a standard for encoding a set of lines and spaces that can be scanned and interpreted into numbers for product identification purposes, including any industry-accepted bar code used for product identification purposes.

(2) PRODUCER RESPONSIBILITY PROGRAM. (a) The department, in conjunction with the packaging reduction organization selected under sub. (4), shall administer a producer responsibility program as provided in this section.

(b) The department of administration shall conduct an annual audit of the program under this section, including the amount of money received, the amount of money sent to a local unit of government, the amount of money used to invest in reduction recycling and reuse programs and services by the packaging reduction organization and any state offices, the amount of discarded packaging created, reduced, and recycled, and any recommendations for improvement of the program. The audit report shall be open to public inspection and copying under s. 19.35 (1).

(3) PRODUCER RESPONSIBILITIES AND EXEMPTIONS. (a) Beginning 12 months after the date specified in sub. (4) (a), a producer may not sell, offer for sale, or distribute into the state a product contained, protected, delivered, presented, or distributed in packaging unless the producer is registered with the packaging reduction organization and in full compliance with the requirements of this section.

(b) A producer shall annually report to the packaging reduction organization all of the following:

1. The total amount, in units and by weight, of each type of packaging material sold, offered for sale, or distributed for sale into the state by the producer in the previous calendar year.

2. All information necessary for the producer and the packaging reduction organization to meet the requirements under sub. (5).

(c) A producer shall submit payment, in a manner and format to be determined by the department, of all fees assessed on the producer by the packaging reduction organization.

(d) A producer shall annually submit to the department and the packaging reduction organization a written declaration signed by the producer's chief executive officer certifying the producer's compliance with the packaging reduction requirements under sub. (10), the packaging recycling requirements under sub. (11), and the toxic substance reduction requirements under sub. (12).

(e) This section does not apply to a producer during a calendar year if the producer provides the department with sufficient information to demonstrate that any of the following occurred in the previous calendar year:

1. The producer had less than $1,000,000 in total gross revenue.

2. The producer sold, offered for sale, or distributed for sale products contained, protected, delivered, presented, or distributed in the state in or using less than one ton of packaging material in total.

(4) SELECTION OF THE PACKAGING REDUCTION ORGANIZATION (a) No later than 12 months after promulgating rules under sub. (14), the department shall select, and enter into a contract with, a nonprofit organization that is described in section 501 (c) (3) of the Internal Revenue Code to serve as the packaging reduction organization for a period of 10 years and to operate the producer responsibility program for a period of 10 years. The department shall notify the legislative reference bureau of the date on which the contract under this paragraph is signed, and the legislative reference bureau shall publish a notice in the Wisconsin administrative register that specifies that date.

(b) The department shall select the nonprofit organization under par. (a) from respondents to a request for proposals. A responsive proposal shall include all of the following:

1. A description of how the nonprofit organization will administer the program under this section, including the process for providing assistance to producers to comply with the reporting requirements under this section.

2. The process the nonprofit organization will use to compile information from participating producers.

3. How the nonprofit organization intends to allocate the moneys granted to it by the department, including staffing and the plan for aiding potential applicants in their grant applications for use of the moneys.

4. A financial assurance plan that ensures that all moneys granted to the

nonprofit organization by the department are transferred to the department if the packaging reduction organization's contract with the department is terminated by the department or expires. Any moneys received by the department under this subdivision shall be deposited in the environmental fund and credited to the appropriation account under s. 20.370 (6) (pr).

5. A proposed budget outlining the anticipated costs of operating the producer responsibility program, including identification of any startup costs that will not be ongoing and a description of the method by which the nonprofit organization intends to determine and collect producer payments during the initial startup period.

6. A certification that the nonprofit organization will not share, except with the department, information provided to the nonprofit organization by a producer that is proprietary information and that is identified by the producer as proprietary information. The certification must include a description of the methods by which the nonprofit organization intends to ensure the confidentiality of such information.

7. Any other relevant information required by the department.

(c) If the department determines that is has received no responsive proposals under this subsection, the department shall administer the program under this section or contract with another entity to administer the program.

(5) RESPONSIBILITIES OF THE PACKAGING REDUCTION ORGANIZATION. (a) The packaging reduction organization shall do all of the following:

1. Register all producers.

2. Collect and compile data from producers under sub. (3).

3. Collect payments from producers under sub. (3) (c).

5. Distribute funds to reimburse local units of government and private companies for the costs associated with the implementation of reduction and refill and reuse programs and collection, transportation, and recycling of packaging materials under sub. (9).

6. Make recommendations to the department regarding investments toward packaging reduction, reuse, and recycling under sub. (9).

7. Offer technical support to nonexempted producers, with an emphasis on support to small businesses, to assist them with compliance with the requirements of this section, including information about procuring affordable alternatives to noncompliant packaging and reducing packaging.

8. Report noncompliant producers identified in par. (b) 6. to the department of justice.

9. Issue an annual report on compliance with this section.

10. Hold at least 3 public hearings each calendar year in locations throughout the state to report on implementation of this section and seek public input on how to improve compliance.

(b) Annually, the packaging reduction organization shall submit a report to the department that includes all of the following:

1. Contact information for the packaging reduction organization.

2. A list of all participating producers, brands, and products identified by the universal product code that the producer sells, offers for sale, or distributes into the state that are contained, protected, delivered, presented, or distributed in or using packaging.

3. The total amount, by both weight and number of units of each type of packaging material used to contain, protect, handle, deliver, transport, distribute, or present products sold, offered for sale, or distributed into the state by each individual producer during the previous calendar year.

4. The total amount, by both weight and number of units, of each type of packaging material used to contain, protect, handle, deliver, transport, distribute, or present products sold, offered for sale, or distributed into the state by all producers during the previous calendar year.

5. A complete accounting of all payments made to and by the packaging reduction organization during the previous calendar year.

6. A list of producers believed to be out of compliance with the requirements of this section and the reason the packaging reduction organization believes each such producer to be out of compliance.

7. A description of the educational and outreach efforts made by the packaging reduction organization in the previous calendar year and how those efforts were designed to reduce packaging waste and increase reuse and recycling of packaging materials.

8. An assessment of whether the fee structure adopted by the department under sub. (8) is effective in incentivizing improvements to the design of packaging material, including actual reduction of packaging, increases in reusable and refillable packaging, recycling rates for packaging materials, and decreases in the amount of packaging.

10. Any additional information required by the department.

(c) The packaging reduction organization shall conduct an annual review to

determine whether products and packaging materials are recyclable. This review shall be conducted in consultation with representatives of end markets, including recycled commodities brokers and manufacturers who purchase postconsumer material for use in manufacturing new products. For the purposes of calculating producer payments and reimbursements to local units of government and private companies, this annual review shall include a transitional period, as specified by the department, between the date the determination is finalized and the date it takes effect.

(d) The packaging reduction organization shall conduct public outreach and provide consumers with educational and informational materials related to reducing the amount of packaging discarded, recycled, and disposed of in the state. The public outreach shall include all of the following:

1. A description of the environmental, social, economic, and environmental justice impacts associated with improper disposal of packaging materials.

2. Information regarding the management of discarded packaging including reuse, recycling, composting, and disposal by landfilling and incineration.

3. The location and availability of curbside and drop-off collection opportunities for packaging waste, including deposit and take-back programs.

4. Information regarding reimbursements to local units of government and private companies for the costs associated with packaging reuse, recycling, and disposal.

5. Any other information required by the department.

(e) In conducting the public outreach and education under par. (d), the packaging reduction organization shall do all of the following:

1. Utilize all available forms of media, including television, radio, print, electronic, and web-based media to provide information directly to residents in the state, in multiple languages.

2. Coordinate with local units of government to incorporate electronic, print, web-based and social media elements that individual local units of government may use to provide education directly to their residents.

3. Provide information to producers for inclusion on their packaging to inform consumers about the methods to responsibly reuse, recycle, or dispose of the packaging.

4. Coordinate with similar public outreach and education programs in the state as necessary to avoid consumer confusion and facilitate the consolidation of available resources.

(f) In addition to the information and materials required under pars. (d) and (e), the packaging reduction organization may provide producers and retailers with additional educational materials related to the responsible reduction, reuse, recycling, or disposal of discarded packaging. The educational and informational materials that may be provided under this paragraph may include printed materials, signage, templates of materials that can be reproduced by retailers and provided to consumers at the time of a product's purchase, and advertising materials that promote and encourage consumers to properly reuse, recycle, or dispose of packaging materials.

(g) The packaging reduction organization may not spend funds on lobbying federal, state, or local units of government or on campaign contributions to any candidates running for office.

(6) RESPONSIBILITIES OF THE DEPARTMENT. (a) No later than 12 months after the date specified in sub. (4) (a), and annually thereafter, the department shall review the work of the packaging reduction organization to develop a list of producers found to be out of compliance with the requirements of this section, based on investigations and audits under sub. (15) (a), and to calculate all of the following:

1. The amount of packaging that was created during the previous calendar year.

2. The recycling rate for all packaging during the previous calendar year.

3. The recycling rate for each packaging material type during the previous calendar year.

(b) If the department determines that the packaging reduction organization no longer meets the requirements of this section, or fails to effectively implement and administer the requirements of this section, the department shall terminate its contract with the packaging reduction organization and select a new packaging reduction organization or administer the program under this section itself.

(7) STATEWIDE PACKAGING REDUCTION, REUSE, AND RECYCLING NEEDS ASSESSMENT (a) No later than 6 months after the effective date of this paragraph .... [LRB inserts date], the department shall issue a request for proposals to conduct a statewide packaging reduction, reuse, and recycling needs assessment to identify barriers and opportunities for reducing, reusing, and recycling packaging materials. Responsive proposals shall include a description of how the respondent will conduct the needs assessment to evaluate all of the following:

1. The current rate of packaging reuse for each type of packaging material.

2. The current recycling rate for each type of packaging material.

3. The amount, by weight and material type, of packaging recycled at each recycling facility that accepts discarded packaging created in the state.

4. The processing capacity, market conditions, and opportunities in the state and regionally for recyclable materials.

5. The net cost of end-of-life management of discarded packaging in the state, including the cost associated with the collection, transportation, sortation, recycling, landfilling, or incineration of discarded packaging.

6. The availability of opportunities in the recycling and reuse system for minority-owned and women-owned businesses.

7. Current barriers affecting recycling access and availability in this state.

8. Current barriers to the marketability of recyclable materials created in this state.

9. Opportunities for the creation of packaging reuse and refill programs in the state.

10. Opportunities for the improvement of packaging recycling in the state, including the development of end markets for recycled packaging materials.

11. Current barriers affecting the creation and implementation of packaging reuse and refill programs.

12. Consumer education needs in the state with respect to packaging waste reduction, recycling, reducing contamination in recycling, and reuse and refill systems for packaging.

(b) After reviewing proposals, the department shall select an applicant to perform the needs assessment within one year of selection or within 18 months after the effective date of this this paragraph .... [LRB inserts date], whichever

occurs first. If the department determines that it has received no responsive proposals under this subsection, the department shall perform the needs assessment.

(c) Five years after the completion of the needs assessment under par. (b), and every 5 years thereafter, the department shall issue a request for proposals to conduct a needs assessment that meets the requirements under par. (a). After reviewing proposals, the department shall select an applicant to perform the needs assessment within one year of selection. If the department determines that it has received no responsive proposals under this subsection, the department shall perform the needs assessment.

(d) Any costs incurred by the department associated with conducting the needs assessment under par. (b) or (c) shall be paid for from the appropriation under s. 20.370 (6) (pr).

(e) The department shall report the results of the needs assessments under pars. (b) and (c) to the public, the media, state legislature, the governor, the department of administration, and the department of justice.

(8) FEES. (a) The department shall promulgate rules establishing how producer fees on packaging materials are calculated and assessed. The fees shall be calculated based on the total amount, by unit, of each type of packaging material used to contain, protect, deliver, present, or distribute a product sold, offered for sale, or distributed into the state by the producer in the previous calendar year.

(b) The department shall promulgate rules establishing a specific fee for packaging material types, including all of the following:

1. Polyethylene terephthalate (PET or PETE).

2. High density polyethylene (HDPE).

3. Polyvinyl Chloride (PVC).

4. Low density polyethylene (LDPE).

5. Polypropylene (PP).

6. Polystyrene (PS) including expanded polystyrene.

7. Other plastic resin types not specifically identified here.

8. Bioplastics.

9. Paper.

10. Cardboard.

11. Wood.

12. Glass.

13. Bimetal, steel and other ferrous metals.

14. Aluminum and other nonferrous metals.

15. Mixed materials including laminates and packaging containing more than one of the above materials.

16. Any other material used for consumer packaging.

(c) The fees established under par. (b) shall be sufficient to cover, at a minimum, the total cost associated with all of the following:

1. The collection, transportation, and management of each type of discarded packaging material used to contain, protect, deliver, present, or distribute products sold, offered for sale, or distributed in this state by all producers.

2. The administration of this section by the department and other state agencies.

3. The administration of the producer responsibility program by the packaging reduction organization.

4. The costs associated with the statewide packaging reduction, reuse, and recycling needs assessment under sub. (7).

5. Any other expenses determined to be relevant by the department.

(d) The fees established under par. (b) shall provide the criteria used to initially establish and subsequently adjust producer payments under par. (a) in a manner that incentivizes all of the following:

1. A reduction in the total packaging as measured by weight used by producers and discarded by consumers, businesses, institutions, and other users.

2. An increase in the proportion of a producer's total packaging that is managed within a reuse and refill system.

3. An increase in the proportion of a producer's total packaging that is deemed recyclable as determined by the annual review process under sub. (5).

4. An increase in the proportion of a producer's total packaging that is ultimately recycled.

5. A reduction in toxic substances in packaging materials.

6. A reduction in litter from packaging materials.

(e) The department may not establish a fee for packaging that is designed for reuse and refill and contained within a reuse or refill system.

(f) The department shall update and revise the fees under par. (b) every 3 years.

(9) FUNDING. (a) Beginning on the first day of the 16th month beginning after the effective date of this paragraph .... [LRB inserts date], from the

appropriation under s. 20.370 (6) (pr), the department shall provide an annual grant to the packaging reduction organization for the administration of the producer responsibility program.

(b) The packaging reduction organization shall retain all moneys received from producers under sub. (3) (c) in the first year of the producer responsibility program to cover its costs of administering the program. Beginning on the first day of the 16th month beginning after the effective date of this paragraph .... [LRB inserts date], the packaging reduction organization shall make a quarterly transfer to the department of all moneys received from producers under sub. (3) (c). The amount transferred shall be deposited in the environmental fund and credited to the appropriation account under s. 20.370 (6) (pr).

(c) From the appropriation under s. 20.370 (6) (pr), the department shall reimburse local units of government and private contracted companies that provide waste and recycling collection services for actual costs associated with this section, including the implementation of reduction, refill, and reuse programs, and the collection, transportation and recycling, disposal, or other processing of packaging materials. Local units of government and private contracted companies that provide waste and recycling collection services may be reimbursed for these costs only if they provide regular, convenient recycling services to all covered entities, including but not limited to residences, businesses, schools, and institutions in their jurisdictions.

(d) The packaging reduction organization shall allocate at least 25 percent of the moneys granted to it by the department to projects and programs that will help

achieve the packaging reduction requirements of sub. (10) and the packaging recycling requirements of sub. (11)

(e) Subject to sub. (g), the packaging reduction organization may allocate the moneys granted to it by the department for any of the following:

1. Investment in collection systems, transportation systems, reuse systems, washing systems, redistribution systems, technology for tracking and data collection, capital expenditures on new and emerging technology focused on reusable and refillable packaging, as well as equipment, facilities, and other projects determined by the department to facilitate the goals and objectives of this section.

2. Investment in public outreach and education in ways that increase access and participation in packaging reduction, reuse, refill, and recycling systems throughout the state.

(f) The packaging reduction organization shall prioritize investments under par. (e) for projects and programs that will directly benefit environmental justice communities.

(g) The packaging reduction organization may make an investment under sub. (e) only if approved by the department. The department shall approve or deny a proposed investment within 90 days of receipt of a proposal from the packaging reduction organization. An investment may be approved if the department determines the investment will do any of the following:

1. Increase the transition of packaging from nonreusable to reduced, reusable or refillable packaging.

2. Increase access to reuse and refill infrastructure in this state.

3. Increase the capacity of reuse and refill infrastructure in this state.

4. Provide reuse and refill instructions that are, to the extent practicable, consistent statewide, easy to understand, translated into various commonly used languages, and easily accessible.

5. Provide for outreach and education that are coordinated across programs or regions to avoid confusion for residents and developed in consultation with a local unit of government and the public.

(10) PACKAGING REDUCTION REQUIREMENTS. (a) 1. Beginning 2 years after a producer first registers with the packaging reduction organization, a producer shall reduce the amount of packaging used to contain, protect, deliver, present, or distribute the products it sells, offers for sale, or distributes for sale into this state by 10 percent by unit.

2. Beginning 4 years after a producer first registers with the packaging reduction organization, a producer shall reduce the amount of packaging used to contain, protect, deliver, present, or distribute the products it sells, offers for sale, or distributes for sale into this state by 20 percent by unit.

3. Beginning 6 years after a producer first registers with the packaging reduction organization, a producer shall reduce the amount of packaging used to contain, protect, deliver, present, or distribute the products it sells, offers for sale, or distributes for sale into this state by 30 percent by unit.

4. Beginning 8 years after a producer first registers with the packaging reduction organization, a producer shall reduce the amount of packaging used to contain, protect, deliver, present, or distribute the products it sells, offers for sale, or distributes for sale into this state by 40 percent by unit.

5. Beginning 10 years after a producer first registers with the packaging reduction organization, a producer shall reduce the amount of packaging used to contain, protect, deliver, present, or distribute the products it sells, offers for sale, or distributes for sale into this state by 50 percent by unit.

(b) The reductions required by this subsection shall be measured against the total amount of packaging the producer used to contain, protect, deliver, present, or distribute the products it sold, offered for sale, or distributed for sale during the first year it registered with the packaging reduction organization.

(c) The reductions required by this subsection may be achieved by eliminating packaging components, reducing packaging components, or using reuse and refill systems.

(d) The reductions required by this subsection may not be achieved by substituting plastic for other materials.

(e) If a producer enters the market with at least 50 percent by weight of its packaging being reusable and contained within a reuse and refill system, the producer may apply to the department for a waiver from the packaging reduction requirements under this subsection.

(11) PACKAGING RECYCLING REQUIREMENTS. (a) A producer shall ensure that the packaging used to contain, protect, deliver, present, or distribute the products it sells, offers for sale, or distributes into this state is made of a material that meets the following recycling rates within this state:

1. Not less than 30 percent by 5 years after the effective date of this subdivision .... [LRB inserts date].

2. Not less than 50 percent by 8 years after the effective date of this subdivision .... [LRB inserts date].

3. Not less than 70 percent by 12 years after the effective date of this subdivision .... [LRB inserts date].

(b) This subsection does not apply to reusable or refillable packaging or containers.

(12) PROHIBITION ON CERTAIN TOXIC SUBSTANCES AND MATERIALS. (a) Beginning 2 years after the rules promulgated under sub. (14) are published in the Wisconsin administrative register, no person may sell, offer for sale, or distribute for use in this state any product in or using packaging made from or containing any of the following:

1. Polyvinyl chloride including polyvinylidene chloride.

2. Polystyrene.

3. Polycarbonate.

4. Melamine formaldehyde.

5. Opaque or pigmented polyethylene terephthalate (PET).

6. Polyethylene terephthalate glycol (PETG).

(b) Beginning 2 years after the rules promulgated under sub. (14) are published in the Wisconsin administrative register, no person may sell, offer for sale, or distribute for use in this state any product in or using packaging made from or containing any of the following toxic substances:

1. Ortho-phthalates.

2. Bisphenols.

3. Per- and polyfluoroalkyl substances (PFAS).

4. Heavy metals and compounds, including lead, hexavalent chromium, cadmium, mercury, and antimony and compounds, but excluding copper phthalocyanine (chemical 53 abstracts service registry number 147-14-8).

5. Benzophenone and its derivatives.

6. Halogenated flame retardants.

7. Perchlorate.

8. Formaldehyde.

9. Toluene.

10. UV 328 (2-(2H-benzotriazol-2-yl)-4,6-di-tert-pentylphenol).

11. Oxo-degradable additives.

(c) Beginning 3 years after the rules promulgated under sub. (14) are published in the Wisconsin administrative register, the department shall designate at least 10 toxic substances or families of toxic substances in addition to those specified in pars. (a) and (b). If the department determines that there are fewer than 10 substances that meet the definition of toxic substances, it shall designate as many as it has determined meet the definition of toxic substances and shall publish a detailed statement of its findings and conclusions supporting such determination. No person may sell, offer for sale, or distribute for use in this state any product in or using packaging made from or containing a toxic substance designated under this paragraph.

(13) RESPONSIBILITIES OF THE DEPARTMENT OF JUSTICE The department of justice shall annually evaluate the program under this section to ensure it is properly functioning.

(14) RULE MAKING. No later than 12 months after the effective date of this

subsection .... [LRB inserts date], the department shall promulgate rules to implement and administer this section, which shall include all of the following:

(a) A process for contracting with the packaging reduction organization under sub. (4).

(b) A process for annually determining a schedule of producer fees and payment collections under sub. (8).

(c) A process for collecting all necessary information to ensure producer compliance with the requirements of this section.

(d) A process for evaluating whether a producer is in compliance with the packaging reduction requirements under sub. (10).

(e) A process for evaluating whether a producer is in compliance with the packaging recycling requirements under sub. (11).

(f) A process for evaluating whether a producer is in compliance with the toxic packaging reduction prohibitions under sub. (12).

(g) A process for determining on an annual basis the types of packaging material that are recyclable.

(h) A process for the assessment of the packaging reduction organization and the producer responsibility program.

(i) Requirements for the packaging reduction organization to conduct a representative audit of recyclable material processed and sold by facilities that process recyclable material created in this state and of municipal solid waste disposed of in the state.

(j) A process for enforcing forfeitures for violations of this section.

(k) A process for determining additional toxic substances under sub. (12) (c).

(L) A process for how the department will oversee and monitor the packaging reduction organization's use of moneys granted to it by the department, including a process for submitting and reviewing proposals regarding investments in projects and programs that will help achieve the packaging reduction requirements under sub. (10) and the packaging recycling requirements under sub. (11).

(m) A process for determining whether information is proprietary information that must be handled as confidential information.

(15) ENFORCEMENT AND PENALTIES. (a) The department and the department of justice may conduct investigations, including inspecting operations, facilities, and records of producers and the packaging reduction organization, and may perform audits of producers and the packaging reduction organization, to determine whether entities are complying with the requirements of this section and the administrative rules promulgated by the department under sub. (14).

(b) The department or the department of justice shall shall notify the packaging reduction organization and producers of any conduct or practice that does not comply with the requirements of this section or any administrative rule promulgated by the department under sub. (14) and of any inconsistencies identified in an audit and shall provide noncompliant producers and the packaging reduction organization 30 days to achieve compliance.

(c) If the packaging reduction organization or a producer is not in compliance with this section or any administrative rule promulgated by the department under sub. (14) after the 30-day period provided in par. (b) has lapsed, the department or the department of justice shall issue a notice of violation to the entity.

(d) Any person violating this section shall forfeit not more than $100,000 per

day, per violation. Each noncompliant product line that is sold, offered for sale, or distributed to consumers via retail commerce in this state, including through an Internet transaction, shall be counted as a separate violation.

(16) ENFORCEMENT BY INDIVIDUALS (a) Any group of at least 10 residents of this state may commence a civil action against any person, including the state, the department, the packaging reduction organization, an individual or group of producers, and the department of justice, that the group alleges is in violation of this section or any administrative rule promulgated by the department under sub. (14).

(b) No action may commence under this subsection unless the plaintiffs have given 60 days notice of their intention to file a claim against the alleged noncompliant party.

(c) In any action brought under this subsection, the department, if not a party, may intervene.

(END)