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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO HEALTH AND SAFETY - REDUCE MARINE DEBRIS AND PRESERVE
LANDFILL SPACE WHILE INCREASING THE RECYCLING OF POST-CONSUMER
PACKAGING MATERIAL

Introduced By: Senators Cool Rumsey, DiPalma, Sosnowski, Lombardo, and Goldin

Date Introduced: February 26, 2013

Referred To: Senate Environment & Agriculture

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 23 of the General Laws entitled "HEALTH AND SAFETY" is hereby
2 amended by adding thereto the following chapter:

3 CHAPTER 18.18

4 REDUCTION OF MARINE DEBRIS AND PRESERVE LANDFILL SPACE WHILE
5 INCREASING THE RECYCLING OF POST-CONSUMER PACKAGING MATERIAL

6 23-18.18-1. Short title. – This chapter shall be known as the "Rhode Island marine
7 Debris Reduction Act."

8 23-18.18-2. Purpose. -- The purposes of this chapter are:

9 (1) To reduce the amount of post-consumer packaging that ends up as marine and beach
10 debris;

11 (2) To increase statewide recovery rates of post-consumer packaging materials for reuse
12 and recycling programs;

13 (3) To establish a manufacturer financed system to increase the collection, recycling and
14 reuse of discarded post-consumer packaging materials;

15 (4) To promote the development of infrastructure for the reuse and recycling of discarded
16 post-consumer packaging materials;

17 (5) To minimize costs incurred by Rhode Island municipalities to collect, dispose of, or
18 recycle discarded post-consumer packaging materials;

1 (6) To encourage the reduction of packaging for consumer goods and, alternatively, the
2 use of more reusable and recyclable materials in the packaging of consumer goods;

3 (7) To research baseline marine litter data in Rhode Island and develop and fund new
4 programs to prevent further degradation and monitoring statewide progress.

5 **23-18.18-3. Findings.** – The general assembly hereby finds and declares:

6 (1) The state of Rhode Island plays an integral role in protecting its coast and ocean
7 waters, The "Rhode Island Marine Debris reduction Act" recognizes the necessity of reducing the
8 amount of unrecovered post-consumer packaging found as waste and litter at our beaches, on our
9 coasts, in the bay, in our storm drains, and in the surrounding ocean.

10 (2) Current data shows that up to eighty percent (80%) or more of marine debris is
11 attributable to land-based sources. Of the debris that ends up in our water resources, as much as
12 two-thirds (2/3) originates as post-consumer packaging materials.

13 (3) Municipal governments and taxpayers currently bear the entire cost associated with
14 managing plastics packaging, including its collection for recycling, beach clean-ups and disposal
15 in landfills. Municipal governments in Rhode Island are struggling financially and the costs of
16 bearing sole responsibility for collecting post-consumer packaging material is coming at the
17 expense of funding for police and fire protection, teachers and education and other essential
18 government services.

19 (4) Many governments throughout the world require the producers of post-consumer
20 packaging to pay for collection, recovery and recycling to help reduce the cost burden of
21 managing post-consumer packaging materials, encourage recycling, and educate consumers about
22 how to dispose of their products and attendant packaging.

23 (5) Rhode Island municipalities representing over half of the state's population have
24 passed resolutions to support industry financing for the collection, processing and recycling of
25 their post-consumer materials. It is critically important that Rhode Island benefit from industry's
26 financial support, experience and assistance to capture more of these materials for reuse and
27 recycling before they are brought to the landfill or left as litter on our roads, rivers and beaches,
28 resulting in marine debris.

29 **23-18.18-4. Definitions.** – The words and phrases defined in this section shall be
30 controlling in all local ordinances, regulations and rules created under this chapter.

31 (1) "Brand" means a name, symbol, word or mark that identifies a product and attributes
32 the product to the owner of the brand as the producer.

33 (2) "Department" means the Rhode Island department of environmental management.

34 (3) "Packaging" means materials that are used for the containment, protection, handing,

1 delivery, and presentation of goods sold or delivered in the state.

2 (4) "Post-Consumer" means the material that would normally be discarded as municipal
3 solid waste having completed its life cycle as a consumer item.

4 (5) "Producer" means a person:

5 (i) Who manufactures materials used in the packaging of consumer goods and sells,
6 offers to sell, or distributes in Rhode Island under the manufacture's own name or brand;

7 (ii) If paragraph (i) of this subdivision does not apply, who is not the manufacturer of the
8 packaging material but is the owner of licensee of a trademark or brand under which the material
9 is sold or distributed in Rhode Island, whether or not the trademark is registered;

10 (iii) If paragraphs (i) and (ii) of this subdivision do not apply, who imports the packaging
11 material into Rhode Island for sale or distribution; or

12 (iv) Who sells at wholesale or retail a designated material, does not have legal ownership
13 of the brand, and elects to fulfill the responsibilities of the producer for that product.

14 (6) "Producer responsibility organization" means an organization designated by a group
15 of producers to act as an agent on behalf of each producer to develop and operate a producer
16 responsibility program for packaging and printed paper.

17 (7) "Program plan" means a detailed plan that describes the manner in which producers
18 shall arrange for the collection and recycling of post-consumer plastic.

19 (8) "Recycling" means the process of collecting and preparing designated material for use
20 in manufacturing processes or for recovery of usable materials followed by delivery of such
21 materials for use as standalone material input, as a replacement for, or supplement to, raw
22 materials. Recycling does not include destruction by incineration; waste-to-energy incineration,
23 conversion into a fuel or other such processes; or landfill disposal.

24 (9) "Recycling rate" means the percentage of packaging sold, offered for sale, delivered,
25 or distributed to households that is collected, processed, and delivered for use in manufacturing
26 processes for use as standalone material input, as a replacement for, or supplement to, raw
27 materials.

28 **23-18.18-5. Recycling of post-consumer packaging.** – (a) Producers of packaging, or a
29 producer responsibility organization acting as a designated agent, are required to develop and
30 submit a program plan to the department within twelve (12) months of the passage of this chapter
31 that arranges for and finances the collection and recycling of post-consumer packaging as
32 described within this section.

33 (b) The submitted plan shall, at a minimum:

34 (1) Indicate how producers of post-consumer packaging shall achieve a recycling rate of

1 eighty percent (80%) for each type of packaging by the year 2020;

2 (2) Identify the packaging materials that any producer, or producer responsibility
3 organization, is taking responsibility. For each material identified, the producer or producer
4 responsibility organization will outline how they will achieve a recycling rate of no less than
5 eighty percent (80%) target by weight by the year 2020;

6 (3) Include an explanation of the process for determining how much packaging is sold
7 into the state each year, and determining the amount of material recovered and recycled;

8 (4) Include a financing structure that is sufficient to cover the cost of developing the plan,
9 operating to program and maintaining a financial reserve sufficient to operate the program in a
10 fiscally prudent and responsible manner;

11 (5) Include a description of the public education program to develop awareness of this
12 program and invest the public in participation;

13 (6) Indicate how the producers, or the producer responsibility organization, will work
14 with municipalities and the Rhode Island resource recovery corporation to operate and/or expand
15 current collection programs that are just as or more convenient to Rhode Island residents;

16 (7) Indicate how the producers, or the producer responsibility organization, will work
17 with the Rhode Island economic development corporation, or its assigns and successors, to
18 identify ways in which the state can motivate local infrastructure investment, business
19 development and job creation related to the collection, transportation and processing of post-
20 consumer packaging materials;

21 (8) Include a program to work with local, regional and national groups that collect beach
22 and marine debris to determine baseline data on what types of materials end up as beach and
23 marine debris and the methods by which it travels from manufacturer to discarding on public land
24 in order to identify the most effective ways that this public nuisance can be currently mitigated
25 and provide for future prevention;

26 (9) The plan must allow for on-going monitoring of the incidents of post-consumer
27 packaging as beach and marine debris and include funding for effective and efficient beach and
28 marine litter abatement programs.

29 (c) Waste incineration, waste-to-energy or waste-to-fuel conversion is not a form of
30 recycling or a means to reach this goal.

31 (d) Consultation required. A producer or group of producers shall consult with
32 stakeholders during the development of the plan, solicit stakeholder comments, and attempt to
33 address any stakeholder concerns regarding the plan before submitting the plan to the department
34 for review.

1 (e) Not later than ninety (90) days after the submission of a plan pursuant to this section,
2 the department shall make a determination whether to:

3 (1) Approve the plan as submitted;

4 (2) Approve the plan with conditions; or

5 (3) Deny the plan.

6 (f) Not later than six (6) months after the date the plan is approved, the producers, or
7 producer responsibility organization, shall implement the approved plan.

8 (g) Not later than the implementation date of the program, the department shall list the
9 names of participating producers and the brands covered by the approved program.

10 (h) Within twenty-four (24) months of the passage of this chapter, no producer,
11 distributor or retailer shall sell or offer for sale any packaging materials to any person in this state
12 if the producer of such materials has not had a plan approved by the department independently or
13 through a producer responsibility organization.

14 (i) Producers of packaging shall submit an annual report to the department, by March 15,
15 each year the program plan is in operation, which shall include information and data from the
16 process for determining how much packaging is sold into the state each year, and determining the
17 amount of material recovered and recycled. Such audit will also include a review of fees assessed
18 and expenses incurred to ensure that it is consistent with the budget contained within the plan
19 described in this section. This information may be audited by the department by an independent
20 auditor chosen by the department, and paid under the plan outlined in this section.

21 **23-18.18-6. Regulations.** – The department is hereby authorized to promulgate rules and
22 regulations as may be necessary to implement and carry out the provisions of this chapter.

23 **23-18.18-7. Enforcement.** – Failure to achieve a recycling rate for a specific material-
24 type established by or pursuant to subsection 23-18.8-5(b) shall obligate the producers covered
25 under the material-type to make available not more than one million dollars (\$1,000,000) per year
26 of non-compliance, to the department. The department shall deposit the funds received from
27 producers into an expendable trust for grants for market development related to the collection and
28 recycling of the material type. Producers' individual contributions shall not exceed their
29 respective market shares of packaging sold in the state.

30 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO HEALTH AND SAFETY - REDUCE MARINE DEBRIS AND PRESERVE
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- 1 This act would establish the Rhode Island Marine Debris Act.
- 2 This act would take effect upon passage.

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