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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

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A N A C T

RELATING TO HEALTH AND SAFETY - SUSTAINABLE PACKAGING

Introduced By: Representatives Blazejewski, Maldonado, Fogarty, Carson, and Tanzi

Date Introduced: April 16, 2015

Referred To: House Environment and Natural Resources

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 19.16

4 PACKAGING WASTE AND LITTER

5 **23-19.16-1. Definitions. --** The following terms as used in this chapter shall have the
6 following meanings:

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

9 (2) "Household" means a single detached dwelling unit or a single unit of a multiple
10 dwelling unit located in this state.

11 (3) "Packaging" means any package or container, or any part of a package or container,
12 that includes material that is used for the containment, protection, handling, delivery and
13 presentation of goods sold, offered for sale, delivered, or distributed to households in the state.
14 Packaging for the purposes of this chapter does not include a package or container used solely for
15 the transportation, display, or storage of products and that would not customarily find its way into
16 households.

17 (4) "Packaging material type" means the type of raw material used in the manufacturing
18 of packaging. Material types include, but are not limited to, metal, glass, plastic, and paper.

19 (5) "Producer" means a person that:

1 (i) Has legal ownership of the brand, brand-name or co-brand of a product or material
2 sold, offered for sale, delivered or distributed in the state that results in waste packaging, whether
3 or not the producer is located in the state;

4 (ii) Makes an unbranded product that is sold, offered for sale or distributed in the state
5 that results in waste packaging; or

6 (iii) Sells packaging at retail, does not have legal ownership of the brand, and elects to
7 fulfill the responsibilities of the producer for that product.

8 (6) "Recycling" means the use of materials contained in previously manufactured goods
9 as feedstock for new products. Recycling does not include use of materials for energy recovery or
10 energy generation by combustion.

11 (7) "Recycling rate" means the percentage of packaging sold, offered for sale, delivered,
12 or distributed to households that is collected, processed, and delivered for use in manufacturing
13 processes or for recycling of usable materials.

14 (8) "Retailer" means a person that offers packaging for sale at retail through any means,
15 including remote offerings such as sales outlets, catalogues, or the Internet. For purposes of this
16 subsection, "sale at retail" does not include a sale that is a wholesale transaction with a distributor
17 or a retailer.

18 (9) "RIRRC" means the Rhode Island resource recovery corporation.

19 (10) "The trust" means the sustainable packaging trust established pursuant to § 23-
20 19.16-2.

21 **23-19.16-2. Sustainable packaging trust established.** -- There shall be established
22 within the Rhode Island resource recovery corporation ("RIRRC") a special fund to be known as
23 the sustainable packaging trust ("the trust"). The following revenue shall be deposited into the
24 trust:

25 (1) All revenues raised by covered producers, pursuant to §§ 23-29.16-4 through 23-
26 29.16-6;

27 (2) Any other revenue appropriated or transferred to the account by the general assembly;
28 and

29 (3) Repayment of low interest loans.

30 **23-19.16-3. Sustainable packaging advisory council established.** -- (a) The council is
31 hereby established as a public body corporate and politic, constituting an instrument of the
32 RIRRC and exercising essential governmental functions.

33 (b) The council shall act as a business management organization within the RIRRC, on
34 behalf of the citizens of the state, to manage the trust to boost the collection and recycling or

1 composting of packaging sold in or into the state.

2 (c) Goal. The council shall act to achieve a recycling rate of seventy-five percent (75%)
3 by weight for all household packaging by June 1, 2021. Goals by material type and commodity
4 shall be included in the integrated recycling plan as described in § 23-19.16-4.

5 (d) Governance. Governance of the council shall be as follows:

6 (1) Membership. All producers of materials, products or product packaging subject to
7 this chapter sold in or into the state shall be members of the council subject to its rules,
8 regulations and bylaws and obliged to pay a share of the council's annual costs based on the
9 market shares of the materials, products and product packaging that each annually sells in or sells
10 into the state.

11 (2) Board of directors. The council shall be governed by a board of directors. The board
12 shall consist of eleven (11) members appointed by the governor including: the director of the
13 department of environmental management or designee; the director of RIRRC or designee; three
14 (3) representatives of producers subject to the fee; one representative of the solid waste
15 management and recycling industries; one representative of an end-user of recycled materials;
16 two (2) representatives of statewide environmental organizations; and two (2) representatives of
17 municipal solid waste programs. The board shall develop its own bylaws in accordance with the
18 laws of the state. The members of the board shall serve without compensation but are entitled to
19 reimbursement, solely from the funds of the council, for expenses incurred in the discharge of
20 their duties.

21 **23-19.16-4. Integrated recycling and litter prevention plan. --** The council shall plan
22 and implement a statewide integrated recycling and litter prevention plan for post-consumer
23 packaging, including composting where applicable, maximizing recovery and litter prevention of
24 all product packaging sold in or into the state. The plan must include:

25 (1) Proposed annual interim recycling goals for 2018, 2019 and 2020;

26 (2) Recycling goals for all commodities arising from waste packaging including, but not
27 limited to: steel cans; aluminum beverage containers; aluminum not used for beverages;
28 polyethylene terephthalate (PET) beverage containers; PET not used for beverages; high density
29 polyethylene (HDPE); polyvinyl chloride (PVC); low density polyethylene (LDPE);
30 polypropylene (PP); polystyrene (PS); plastic bags and film plastic, including flexible film
31 packaging; beverage container glass; glass containers not used for beverages; aseptic packaging,
32 cardboard and poly-coated paper packaging; and

33 (3) Litter prevention and mitigation targets.

34 **23-19.16-5. Sustainable packaging trust administration. --** The trust shall be used by

1 the council and RIRRC for the exclusive purpose of funding specific activities designed to
2 achieve the goal pursuant to the goal of achieving a seventy-five percent (75%) recycling rate by
3 weight for all household packaging and preventing and/or mitigating litter. The trust may be
4 expended only:

5 (1) To fund the development of the integrated recycling plan to achieve the recycling goal
6 and guide the council's actions;

7 (2) To fund pro-rated costs incurred by municipalities to collect packaging waste and
8 manage it for recycling and reuse, covered in this chapter;

9 (3) To fund statewide litter prevention and mitigation efforts;

10 (4) To fund statewide outreach and education efforts aimed at increasing recycling and
11 litter prevention across the state;

12 (5) To fund capital improvements to the local waste handling infrastructure for the
13 collection and recycling of packaging waste, including, but not limited to:

14 (i) Investments in materials recovery and compost facilities to compost, recover and
15 recycle more packaging;

16 (ii) Away-from-home recycling; and

17 (iii) Market development for packaging material types which currently don't have robust
18 markets;

19 (6) To pay the limited and reasonable cost of the RIRRC and the council to study,
20 evaluate and report on the status and potential for recycling various components of the packaging
21 waste stream; and

22 (7) To pay the department's and RIRRC's limited and reasonable costs for administering
23 its responsibilities under this chapter.

24 **23-19.16-6. Duties of the council and RIRRC. -- (a) Fee-setting. The council shall**
25 **determine the annual fees to be paid by each producer of packaging subject to this chapter, and**
26 **shall collect fees due, and disperse monies to its contractors and suppliers, and to the RIRRC for**
27 **oversight and enforcement as required by this chapter. RIRRC shall charge producers according**
28 **to the market share of materials, products and product packaging each sells or sells into the state.**
29 **Packaging of any type used to protect, contain or affixed to materials or products prior retail sale**
30 **shall be the responsibility of the producer or product brand owner. Among the variables to be**
31 **considered in creating the fee structure shall be the following:**

32 (1) Fees that reward the use of postconsumer material content;

33 (2) Fees that reward higher recycling rates for marketable commodity types;

34 (3) Fees that reward materials that have higher postconsumer material value;

1 (4) Fees that reward materials with lower relative processing costs; and

2 (5) Fees that reward the use of reusable or refillable packaging.

3 (b) Outreach and education. From the trust, RIRRC shall spend one dollar (\$1.00) per
4 state resident per year of operation, for public education, advertising and promotion of waste
5 prevention, reuse and recycling.

6 (c) Database of recycling and disposal quantities and costs. RIRRC shall establish a
7 database of recycling and disposal quantities and costs and the charges and obligations of its
8 producer members.

9 (d) Payments to cities, towns and commission franchisees. RIRRC shall pay cities,
10 counties, commission franchisees and commercial-sector recycling collectors for the tonnage of
11 materials, products and product packaging subject to this chapter recycled by each jurisdiction or
12 entity according to the following schedule, where the recycling rate is the overall municipal solid
13 waste recycling rate, including reuse and composting, for all materials products and product
14 packaging achieved by a city or town, or that achieved in a commission franchise area, and
15 RIRRC's payment is the percentage of the recycling cost to be paid. The recycling rate for any
16 jurisdiction shall be calculated by the city, town or commission franchisee no less frequently than
17 every two (2) years.

<u>Recycling rate</u>	<u>Council's payment</u>
<u>Less than 25%</u>	<u>0%</u>
<u>25% to 29.99%</u>	<u>5%</u>
<u>30% to 34.99%</u>	<u>10%</u>
<u>35% to 39.99%</u>	<u>20%</u>
<u>40% to 44.99%</u>	<u>30%</u>
<u>45% to 49.99%</u>	<u>40%</u>
<u>50% to 54.99%</u>	<u>50%</u>
<u>55% to 59.99%</u>	<u>60%</u>
<u>60% to 64.99%</u>	<u>70%</u>
<u>65% to 69.99%</u>	<u>80%</u>
<u>70% to 74.99%</u>	<u>90%</u>
<u>75% and above</u>	<u>100%</u>

31 (e) Eligibility for payment. Receiving entities must be held to full cost accounting
32 practices and demonstrate efficiencies in collection practices to be able to receive funds. One can
33 achieve high recycling rates with very expensive recovery programs and the council should
34 develop guidelines to prevent excessive costs.

1 **23-19.16-7. Producer responsibility.** -- (a) Each producer, group of producers or
2 producer responsibility organization shall:

3 (1) Registration. Producers seeking to sell in or into the state any materials, products and
4 associated product packaging subject to this chapter on its effective date or as it may be amended
5 in the future must register with the RIRRC and comply with all the requirements of this chapter
6 and any rules which later may be developed by the department. Registration and payment of
7 required fees entitles covered producers to membership in the council;

8 (2) Sales reporting. Producers subject to this chapter on its effective date or as it may be
9 amended in the future shall report to the authority annually by March 31 of each year:

10 (i) The total quantities in tons or other agreed-upon measure convertible into tons of all
11 materials, products and associated product packaging each sold or sold into the state in the
12 previous calendar year;

13 (ii) RIRRC shall use the data producers supply to develop the annual charges due from
14 each producer.

15 (b) Deminimus exemption. The requirements of this chapter do not apply to a producer of
16 packaging with gross sales in the state of less than one million dollars (\$1,000,000).

17 **23-19.16-8. RIRRC powers and responsibilities.** -- (a) RIRRC shall determine whether
18 the integrated recycling plan and producer program plans and plan updates meet the requirements
19 of this chapter and notify the applicant in writing of its determination.

20 (b) By January 1, 2021, and annually thereafter, RIRRC shall submit a progress report to
21 the general assembly.

22 (c) RIRRC may participate in the establishment of a regional multistate organization or
23 compact to assist in carrying out the requirements of this chapter and promote uniformity in
24 administration of packaging requirements in other states.

25 **23-19.16-9. Existing contracts.** -- This chapter shall not void any existing contracts
26 among municipalities, collectors, transporters and recycling facilities for recycling collection or
27 processing services.

28 **23-19.16-10. Prohibition.** -- On and after the effective date of a program plan approved
29 by RIRRC, no person may sell, offer for sale, barter, exchange, give or distribute a product in the
30 state that results in waste packaging unless the producer of the product or product packaging is a
31 member of the council with all charges paid.

32 **23-19.16-11. Enforcement.** -- RIRRC may enforce this chapter under the enforcement
33 granted to it in § 23-19-10.

34 **23-19.16-12. Private right of action.** -- A producer injured by a violation of the

1 [requirements of this chapter by another producer unable to achieve redress through the actions of](#)
2 [the council or RIRRC shall have a private right of action in the superior court.](#)

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO HEALTH AND SAFETY - SUSTAINABLE PACKAGING

1 This act would create the sustainable packaging advisory council within the Rhode Island
2 resource recovery corporation to reduce packaging waste and litter through shared responsibility
3 for recycling. The act would also establish a sustainable packaging trust. The council would
4 manage the trust and use its funds to promote the collection, recycling, and composting of
5 packaging materials sold in or into the state. The resource recovery corporation and the council
6 would collect fees from products of packaging and pay to municipalities and others from the
7 tonnage of materials recycled by each entity.

8 This act would take effect upon passage.

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