

HOUSE BILL NO. 5902

July 31, 2024, Introduced by Reps. Aiyash and Paiz and referred to the Committee on Natural Resources, Environment, Tourism and Outdoor Recreation.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
(MCL 324.101 to 324.90106) by adding part 177.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **PART 177**

2 **PACKAGING REDUCTION AND RECYCLING PROGRAM**

3 **Sec. 17701. As used in this part:**

4 (a) "Beverage container" means an airtight metal, glass,
5 paper, or plastic container, or a container composed of a
6 combination of these materials, that, at the time of sale, contains

1 any beverage in a quantity of not more than 1 gallon.

2 (b) "Bioplastic" or "bioplastics" means plastic produced from
3 biological sources such as vegetable fats and oils,
4 polysaccharides, sugar, proteins, or other materials that are
5 designed to be biodegradable.

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

10 (d) "Chemical recycling" means a process for the conversion of
11 postconsumer plastics into fuels, oils, waxes, monomers, chemicals,
12 and other products through chemical or molecular conversion
13 processes including, but not limited to, pyrolysis (catalytic and
14 noncatalytic), gasification, depolymerization, hydrogenation,
15 solvolysis, molecular recycling, thermal desorption, waste-to-fuel
16 processes, or waste-to-energy processes.

17 (e) "Department" means the department of environment, Great
18 Lakes, and energy.

19 (f) "Discarded", in reference to packaging material, means
20 used for its intended purpose and no longer needed by consumers,
21 businesses, institutions, and other users, and manageable through
22 reuse, recycling, or disposal. Discard has a corresponding meaning.

23 (g) "Disposal" means any of the following:

24 (i) Incineration.

25 (ii) Landfilling.

26 (iii) Use for landfill cover.

27 (iv) Energy recovery or energy generation by any means,
28 including, but not limited to, combustion, pyrolysis, gasification,
29 solvolysis, thermal desorption, a waste-to-fuel process, or any

1 other chemical or molecular conversion process.

2 (h) "Environmental justice community" means a geographic area
3 that the department, using a tool such as the United States
4 Environmental Protection Agency's EJSCREEN, has identified as a
5 community facing a disproportionate environmental burden using
6 indicators such as sensitive populations, socioeconomic factors,
7 exposures, and environmental effects.

8 (i) "Local government" means any municipal corporation,
9 governmental subdivision of this state, local governmental unit,
10 special district, school, local or regional board, commission, or
11 authority authorized by law to plan or provide for waste management
12 services for a specific geographical area.

13 (j) "Needs assessment" means the statewide packaging
14 reduction, reuse, and recycling needs assessment provided for in
15 section 17707.

16 (k) "Packaging" or "packaging material", subject to
17 subdivision (l), means a discrete material or category of material,
18 regardless of recyclability, including, but not limited to, paper,
19 plastic, glass, metal, or multimaterial, that is used for the
20 containment, protection, handling, delivery, transport,
21 distribution, or presentation of another product that is sold,
22 offered for sale, imported, or distributed in this state,
23 including, but not limited to, the following:

24 (i) Polyethylene terephthalate (PET or PETE).

25 (ii) High-density polyethylene (HDPE).

26 (iii) Polyvinyl chloride (PVC).

27 (iv) Low-density polyethylene (LDPE).

28 (v) Polypropylene (PP).

29 (vi) Polystyrene (PS), including expanded polystyrene.

(vii) Other plastic resin types not specifically identified in this subsection.

(viii) Bioplastics.

(ix) Paper.

(x) Cardboard.

(xi) Wood.

(xii) Glass.

(xiii) Bimetal, steel, and other ferrous metals.

(xiv) Aluminum and other nonferrous metals.

(xv) Mixed materials including laminates and packaging containing more than 1 of the materials listed in subdivisions (a) to (n).

(xvi) Any other material used for consumer packaging.

(l) Packaging does not include any of the following:

(i) Medical devices and packaging that are included with products regulated as a combination product as described in 21 CFR 3.2(e), or as a drug, medical device, or dietary supplement, by the United States Food and Drug Administration under the federal food, drug, and cosmetic act, 21 USC 301 to 473.

(ii) Animal biologics, including vaccines, bacterins, antisera, diagnostic kits, and other products of biological origin, and other covered materials regulated by the United States Department of Agriculture under the virus-serum-toxin act, 21 USC 151 to 159.

(iii) Packaging regulated by the federal insecticide, fungicide, and rodenticide act, 7 USC 136 to 136y, or other applicable federal law, rule, or regulation.

(iv) A beverage container.

(m) "Packaging reduction and recycling program" or "program"

1 means the program implemented by the packaging reduction
2 organization, and overseen by the department, to reduce packaging,
3 to assess and collect information and payments from producers based
4 on the amount of packaging used by each producer to contain,
5 protect, deliver, present, or distribute their products, and to pay
6 for the development of packaging reduction programs, including, but
7 not limited to, reusable and refillable packaging systems and
8 infrastructure, reimbursements to local government to cover the
9 cost of packaging recycling, and investments in education and
10 outreach.

11 (n) "Packaging reduction fund" means the fund created in
12 section 17709.

13 (o) "Packaging reduction organization" means the entity
14 responsible for operating the packaging reduction program under
15 section 17704.

16 (p) "Postconsumer recycled material" means new material
17 produced using material resulting from the recovery, separation,
18 collection, and reprocessing of material that would otherwise be
19 disposed of or processed as waste and that was originally sold for
20 consumption. Postconsumer recycled material does not include
21 postindustrial material or preconsumer material, or material
22 generated by means of chemical recycling.

23 (q) "Producer", subject to subdivision (r), means the
24 following:

25 (i) An individual or entity that manufactures or uses in
26 commercial enterprise a product sold, offered for sale, contained,
27 protected, delivered, presented, or distributed in this state in or
28 using packaging under the brand of the manufacturer.

29 (ii) If subparagraph (i) does not apply, an individual or entity

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

6 (iii) If neither subparagraph (i) nor (ii) applies, an individual
7 or entity that imports into the United States or this state a
8 product that is contained, protected, delivered, or presented in
9 packaging, for use in commercial enterprise in this state.

10 (r) Producer includes a franchisor of a franchise located in
11 this state if the franchisee otherwise meets the requirements of
12 subdivision (n), but producer does not include the franchisee
13 operating that franchise.

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

18 Sec. 17702. As used in this part:

19 (a) "Recyclable", subject to subdivision (b), describes a
20 product or packaging material that, as determined through the annual
21 review process under section 17705(3), meets all of the following
22 requirements:

23 (i) Can be sorted by entities that process postconsumer
24 materials discarded in this state.

25 (ii) Has a consistent regional market for purchase by end users
26 in the production of new products.

27 (iii) Can be recycled with minimal losses of material during
28 processing and manufacturing.

29 (b) Recyclable does not describe material processed through

1 chemical recycling.

2 (c) "Recycled" describes discarded packaging materials or
3 products used in the production of a new product or packaging in
4 place of virgin materials. Material is not considered recycled if
5 it is used as landfill cover. Recycled material does not include
6 contaminants, residues, and other process losses.

7 (d) "Recycling", subject to subdivision (e), means the series
8 of activities by which material is both of the following:

9 (i) Collected, transported, sorted, and processed.

10 (ii) Used in industrial feedstocks in place of virgin materials
11 to manufacture new products with minimal loss of material quality
12 and quantity, as determined through the annual review under section
13 17705(3).

14 (e) Recycling does not include either of the following:

15 (i) Energy recovery, energy generation, or generation of toxic
16 substances by any means, including, but not limited to, chemical
17 recycling, incineration, or combustion.

18 (ii) Landfill disposal of discarded material or discarded
19 product component materials, including the use of materials as
20 landfill cover.

21 (f) "Recycling rate", with respect to a type of packaging
22 material, means the percentage obtained by taking the total weight
23 of that type of packaging material recycled in this state in a
24 given year, dividing by the total weight of that type of packaging
25 material discarded in this state in that year, and multiplying the
26 quotient by 100. Recycling rate, with respect to all packaging
27 material, means the percentage obtained by taking the total weight
28 of all packaging material recycled in this state in a given year,
29 dividing by the total weight of all packaging material discarded in

1 this state in that year, and multiplying the quotient by 100.
2 Material losses of contaminants and residues accruing during
3 collection, processing, and manufacturing of new products are not
4 considered recycled and shall not be included in the dividend.

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

10 (h) "Reuse and refill system" means a program or set of
11 mechanisms designed to facilitate multiple uses of packaging. A
12 reuse and refill system may include, but is not limited to,
13 deposits, incentives, curbside collection, collection kiosks,
14 refill stations, dishwashing facilities, and redistribution
15 networks.

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

20 (j) "Toxic substance" means a chemical or chemical class
21 identified by a state agency, federal agency, international
22 intergovernmental agency, accredited research university, or other
23 scientific entity considered authoritative by the department on the
24 basis of credible scientific evidence as being any of the
25 following:

26 (i) A chemical or chemical class that is a carcinogen, mutagen,
27 reproductive toxicant, immunotoxin, neurotoxicant, or endocrine
28 disruptor.

29 (ii) A chemical or chemical class that is persistent or

1 bioaccumulative.

2 (iii) A chemical or chemical class that may harm the normal
3 development of a human or wildlife.

4 (iv) A chemical or chemical class that may harm organs or cause
5 other systemic toxicity.

6 (v) A chemical or chemical class that may have adverse air
7 quality impacts, adverse ecological impacts, adverse soil quality
8 impacts, or adverse water quality impacts.

9 (vi) A chemical or chemical class that the department has
10 determined has equivalent toxicity to the above criteria.

11 (k) "UPC" means "universal product code", a standard for
12 encoding a set of lines and spaces that can be scanned and
13 interpreted into numbers for product identification purposes. UPC
14 includes any industry-accepted barcode used for product
15 identification purposes in a manner similar to a UPC, including,
16 but not limited to, a European article number.

17 Sec. 17703. (1) Beginning 1 year after the execution of a
18 contract with the packaging reduction organization selected through
19 the competitive bidding process under section 17704 or the
20 designation of a state agency as the packaging reduction
21 organization under section 17704, a producer shall not sell, offer
22 for sale, or distribute in this state a product contained,
23 protected, delivered, presented, or distributed in or using
24 packaging unless the producer is both of the following:

25 (a) Registered with the packaging reduction organization under
26 section 17705.

27 (b) In full compliance with all requirements of this part.

28 (2) A producer shall annually report to the packaging
29 reduction organization both of the following:

1 (a) The total amount, by weight, of each type of packaging
2 material sold, offered for sale, or distributed in this state by
3 the producer in the prior calendar year.

4 (b) All information necessary for the producer and the
5 packaging reduction organization to meet their obligations under
6 section 17705.

7 (3) A producer shall submit to the packaging reduction
8 organization, in a manner and format to be determined by the
9 department, all fees assessed on the producer by the packaging
10 reduction organization under section 17708.

11 (4) A producer shall annually submit, to both the department
12 and the packaging reduction organization, a written declaration
13 signed by the chief executive officer, verifying the producer's
14 compliance with sections 17710, 17711, and 17712.

15 (5) A producer is exempt from this part in a calendar year if
16 any of the following apply:

17 (a) The producer realized less than \$1,000,000.00 in total
18 gross revenue during the prior calendar year.

19 (b) The producer sold, offered for sale, or distributed in
20 this state products contained, protected, delivered, presented, or
21 distributed in or using less than 1 ton of packaging material in
22 total during the prior calendar year.

23 (6) A producer claiming an exemption under subsection (5)
24 shall provide the department with sufficient information to
25 demonstrate that the claimant is eligible for an exemption.

26 Sec. 17704. (1) Consistent with the requirements of this
27 section, within 1 year after promulgating rules under this part,
28 the department shall select and enter into a contract with a
29 nonprofit organization exempt under 26 USC 501(c)(3) to operate the

1 packaging reduction and recycling program for 10 years as the
2 packaging reduction organization.

3 (2) Consistent with applicable competitive bidding
4 requirements and following the initial promulgation of rules under
5 this part, the department shall issue a request for a proposal for
6 the operation of the packaging reduction and recycling program. The
7 proposals must cover the 10-year operation of the program by the
8 successful bidder and must include, at a minimum, all of the
9 following information:

10 (a) A description of how the bidder will administer the
11 program, including the mechanisms and processes for providing
12 assistance to producers to comply with the reporting requirements
13 of this part.

14 (b) The mechanisms and processes the bidder will use to
15 compile information from producers.

16 (c) How the bidder intends to establish and manage the
17 packaging reduction fund, including, but not limited to, all of the
18 following:

19 (i) Public participation.

20 (ii) The staffing the bidder intends to use for management of
21 the fund.

22 (iii) A plan for assisting potential applicants to apply for
23 grants funded under section 11709(3)(d).

24 (d) A financial assurance plan that ensures all money held in
25 the packaging reduction fund is immediately and exclusively
26 forfeited and transferred to or otherwise made immediately
27 available to the department if the packaging reduction contract
28 with the department is terminated by the department or expires.

29 (e) A proposed budget outlining the anticipated costs of

1 operating the program, including both of the following:

2 (i) Identification of any start-up costs that will not be
3 ongoing.

4 (ii) A description of the method by which the bidder intends to
5 determine and collect producer payments during the initial startup
6 period.

7 (f) A certification that the bidder will not share, except
8 with the department, information provided to the bidder by a
9 producer that is proprietary information and that is identified by
10 the producer as proprietary information. The certification must
11 include a description of the methods by which the bidder intends to
12 ensure the confidentiality of the information.

13 (g) Any other relevant information required by the department.

14 (3) If, at the close of the competitive bidding process, the
15 department determines that no bidder has submitted a qualified bid,
16 the department shall operate the program.

17 Sec. 17705. (1) The packaging reduction organization shall do
18 all of the following:

19 (a) Register producers.

20 (b) Collect and compile data from producers as required by
21 section 17703.

22 (c) Collect fees due from producers as required by section
23 17708.

24 (d) Reimburse the department and the state treasurer for the
25 costs associated with conducting the needs assessment under section
26 17707.

27 (e) Distribute funds to reimburse local governments and
28 private companies for the costs associated with the implementation
29 of reduction, refill, and reuse programs and collection,

1 transportation, and recycling of packaging materials as required by
2 section 17709.

3 (f) Make recommendations to the department regarding
4 investments for packaging reduction, reuse, and recycling under
5 section 17709.

6 (g) Offer technical support to producers, with an emphasis on
7 support to small businesses, to assist them with compliance with
8 the requirements of this part, including information about
9 procuring affordable alternatives to noncompliant packaging and
10 reducing packaging.

11 (2) The packaging reduction organization shall annually submit
12 a report to the department that, at a minimum, includes all of the
13 following information:

14 (a) Contact information for the packaging reduction
15 organization.

16 (b) A list of all producers, brands, and products, identified
17 by the UPC, that the producer sells, offers for sale, or
18 distributes in this state and that are contained, protected,
19 delivered, presented, or distributed in or using packaging.

20 (c) The total amount, by weight, of each type of packaging
21 material used to contain, protect, handle, deliver, transport,
22 distribute, or present products sold, offered for sale, or
23 distributed in this state by each producer during the prior
24 calendar year.

25 (d) The total amount, by weight, of each type of packaging
26 material used to contain, protect, handle, deliver, transport,
27 distribute, or present products sold, offered for sale, or
28 distributed in this state by all producers during the prior
29 calendar year.

1 (e) A complete accounting of all payments made to and by the
2 packaging reduction organization during the prior calendar year.

3 (f) A list of producers believed to be out of compliance with
4 the requirements of this part, and the reason the packaging
5 reduction organization believes each listed producer to be out of
6 compliance. Information on noncompliant producers shall be provided
7 to the attorney general in a timely fashion for possible
8 enforcement action.

9 (g) A description of both of the following:

10 (i) Educational and outreach efforts made by the packaging
11 reduction organization in the prior calendar year.

12 (ii) How those efforts were designed to reduce packaging waste
13 and to increase reuse and recycling of packaging materials.

14 (h) An assessment of whether the fee structure adopted by the
15 department under section 17708 has been effective in incentivizing
16 improvements to the design of packaging material, including actual
17 reduction of packaging, increases in reusable and refillable
18 packaging, increases in recycling rates for packaging materials,
19 and decreases in the amount of packaging.

20 (i) A description of the reimbursements and expenditures made
21 under section 17709.

22 (j) Any additional information required by the department.

23 (3) The packaging reduction organization shall conduct an
24 annual review to determine whether products and packaging materials
25 are recyclable. The annual review shall be conducted in
26 consultation with representatives of end markets, including
27 recycled commodities brokers and manufacturers who purchase
28 postconsumer material for use in manufacturing new products. For
29 the purposes of calculating producer payments and municipal

1 reimbursements under this part, the department shall specify by
2 rule a transitional period between the date the determination is
3 finalized and the date it goes into effect.

4 (4) The packaging reduction organization shall conduct public
5 outreach and provide consumers with educational and informational
6 materials related to reducing the amount of packaging discarded,
7 recycled, and disposed of in this state. The outreach and education
8 shall, at a minimum, include all of the following:

9 (a) A description of the environmental, social, economic, and
10 environmental justice impacts associated with improper disposal of
11 packaging materials.

12 (b) At least 3 public hearings in geographically diverse parts
13 of this state each year, to solicit public input on the
14 implementation and effectiveness of the law and suggested
15 improvements.

16 (c) Information regarding the management of discarded
17 packaging including reuse, recycling, composting, and disposal by
18 landfilling and incineration.

19 (d) The location and availability of curbside and drop-off
20 collection opportunities for packaging waste, including deposit and
21 take-back programs.

22 (e) A description of the environmental, social, economic, and
23 environmental justice impacts associated with failure to reuse or
24 recycle packaging materials.

25 (f) Information regarding municipal reimbursement for the
26 costs associated with packaging reuse, recycling, and disposal.

27 (g) Any other information required by the department.

28 (5) The public outreach and education conducted by the
29 packaging reduction organization shall meet all of the following

1 requirements:

2 (a) Utilize all available forms of media, including, but not
3 limited to, television, radio, print, electronic, and web-based
4 media to provide information directly to residents in this state in
5 multiple languages.

6 (b) Be coordinated with the various local governments in this
7 state to incorporate electronic, print, web-based, and social media
8 elements that a local government may elect to use, at its
9 discretion, to provide education directly to its residents.

10 (c) Be provided to producers for inclusion on their
11 packaging's label to inform consumers about the methods to
12 responsibly reuse, recycle, or dispose of the packaging.

13 (d) Be coordinated with other similar public outreach and
14 education programs in this state as necessary to avoid consumer
15 confusion and facilitate the consolidation of available resources.

16 (6) In addition to engaging in the public outreach and
17 education under subsections (4) and (5), the packaging reduction
18 organization shall provide producers and retailers with educational
19 materials related to the responsible reduction, reuse, recycling,
20 or disposal of discarded packaging. The educational and
21 informational materials provided to retailers under this subsection
22 may include, but need not be limited to, any of the following:

23 (a) Printed materials.

24 (b) Signage.

25 (c) Templates of informational materials that can be
26 reproduced by retailers and provided by retailers to consumers at
27 the time of a product's purchase.

28 (d) Advertising materials that promote and encourage consumers
29 to properly reuse, recycle, or dispose of packaging materials.

1 (7) The packaging reduction organization shall not spend funds
2 on lobbying federal, state, or local governments or campaign
3 contributions to any candidate running for office.

4 Sec. 17706. (1) Within 1 year after the department executes a
5 contract with the packaging reduction organization selected through
6 the competitive bidding process under section 17704 or determines
7 that no bidder has submitted a proposal that complies with bid
8 requirements, and annually thereafter, the department, working with
9 the packaging reduction organization if the packaging reduction
10 organization is not the department, shall do all of the following:

11 (a) Calculate the amount of packaging that was discarded in
12 this state during the prior calendar year.

13 (b) Calculate the recycling rate for all packaging during the
14 prior calendar year.

15 (c) Calculate the recycling rate for each type of packaging
16 material during the prior calendar year.

17 (d) Develop a list of producers believed to be out of
18 compliance with the requirements of this part.

19 (2) If the department determines that the packaging reduction
20 organization no longer meets the requirements of this part, or
21 fails to implement this part in a manner that effectuates the
22 purposes of this part, the department shall notify the packaging
23 reduction organization in writing specifying the deficiency. If the
24 packaging reduction organization does not correct the deficiency
25 within 30 days, the department shall do both of the following:

26 (a) Cancel its contract with the packaging reduction
27 organization.

28 (b) Select a new packaging reduction organization or operate
29 the program itself.

1 Sec. 17707. (1) Consistent with applicable competitive bidding
2 requirements, within 1 year after promulgating rules to implement
3 this part under section 17714, and every 5 years thereafter, the
4 department shall issue a request for proposals to conduct a
5 statewide packaging reduction, reuse, and recycling needs
6 assessment to identify barriers to and opportunities for reducing,
7 reusing, and recycling packaging materials. The first recycling
8 needs assessment shall be completed within 180 days after the
9 effective date of the amendatory act that added this section. The
10 proposals must include, at a minimum, a description of how the
11 bidder will conduct the needs assessment to evaluate all of the
12 following:

13 (a) The current recycling rate for each type of packaging
14 material.

15 (b) The current state of reuse as packaging for each type of
16 packaging material.

17 (c) The amount, by weight and material type, of packaging
18 recycled at each recycling facility that accepts packaging
19 discarded in this state.

20 (d) The processing capacity, market conditions, and
21 opportunities in this state and regionally for recyclable
22 materials.

23 (e) The net cost of end-of-life management of discarded
24 packaging in this state, including the cost associated with the
25 collection, transportation, sorting, recycling, landfilling, or
26 incineration of discarded packaging.

27 (f) The availability of opportunities in the recycling and
28 reuse system for minority- and women-owned businesses.

29 (g) Current barriers affecting recycling access and

1 availability in this state.

2 (h) Current barriers to the marketability of recyclable
3 materials discarded in this state.

4 (i) Opportunities for the creation of packaging reuse and
5 refill programs in this state.

6 (j) Opportunities for the improvement of packaging recycling
7 in this state, including the development of end markets for
8 recycled packaging materials.

9 (k) Current barriers affecting the creation and implementation
10 of packaging reuse and refill programs.

11 (l) Consumer education needs in this state with respect to
12 packaging waste reduction, recycling, reducing contamination in
13 recycling, and reuse and refill systems for packaging.

14 (2) After reviewing proposals, the department shall select an
15 applicant to perform the needs assessment. If, at the close of the
16 competitive bidding process, the department determines that no
17 bidder has submitted a qualified bid, the department shall perform
18 the needs assessment.

19 (3) The cost incurred by the department associated with
20 conducting the needs assessment shall be paid for with revenue from
21 the packaging reduction and recycling fund.

22 (4) The department shall report the results of the needs
23 assessment to the public, the state legislature, the governor, the
24 state treasurer, the inspector general, and the attorney general.

25 Sec. 17708. (1) The department shall annually assess fees
26 against producers. The fees shall be calculated based on the total
27 amount, by weight, of each type of packaging material used to
28 contain, protect, deliver, present, or distribute a product sold,
29 offered for sale, or distributed in this state by the producer in

1 the prior calendar year.

2 (2) The fees shall be designed to achieve both of the
3 following:

4 (a) To cover the total cost associated with all of the
5 following:

6 (i) The collection, transportation, and management of each type
7 of packaging material used to contain, protect, deliver, present,
8 or distribute products sold, offered for sale, or distributed in
9 this state by all producers.

10 (ii) The administration of this part by the department and
11 other state agencies.

12 (iii) The administration of the packaging reduction and
13 recycling program and the packaging reduction fund by the packaging
14 reduction organization.

15 (iv) The cost associated with the development of the needs
16 assessment.

17 (v) Any other relevant expenses under this part as determined
18 by the department.

19 (b) To incentivize all of the following:

20 (i) A reduction in the total packaging, as measured by weight
21 and distributed by producers in this state. Weight reductions for
22 the purposes of this subdivision shall not be achieved by
23 substituting plastic for other materials.

24 (ii) An increase in the proportion of a producer's total
25 packaging that is managed within a reuse and refill system.

26 (iii) An increase in the proportion of a producer's total
27 packaging that is recyclable as determined by an annual review
28 under section 17705(3).

29 (iv) An increase in the proportion of a producer's total

1 packaging that is ultimately recycled.

2 (v) A reduction in toxic substances in packaging materials.

3 (vi) A reduction in litter from packaging materials.

4 (3) A fee shall not be assessed on packaging that is designed
5 for reuse and refill and contained within a reuse or refill system.

6 (4) The department shall update and revise the fees every 3
7 years.

8 Sec. 17709. (1) The packaging reduction fund is established in
9 the state treasury. The state treasurer shall deposit in the fund
10 producer payments as provided for under section 17708, fines
11 collected under section 17712 or 17715, and money and other assets
12 received from any other source for deposit in the fund. The state
13 treasurer shall direct the investment of money in the fund and
14 credit interest and earnings from the investments to the fund. The
15 department is the administrator of the fund for audits of the fund.

16 (2) The packaging reduction organization shall forward to the
17 state treasurer for deposit into the fund all payments received
18 from producers under section 17708. Fines collected under section
19 17712 or 17715 shall be forwarded to the state treasurer for
20 deposit into the fund.

21 (3) Beginning 1 year after the first payment of fees by
22 producers under section 17708, and annually thereafter, money shall
23 be expended from the fund on appropriation, only for 1 or more of
24 the following purposes:

25 (a) The department's payments to the packaging reduction
26 organization under the contract entered under section 17704.

27 (b) Costs incurred by the department, the department of
28 attorney general, the office of inspector general, and the state
29 treasurer, and other state agencies for the administration and

1 enforcement of this part and rules promulgated under this part.

2 (c) Costs incurred by a local unit of government for the
3 management, reduction, and recycling of packaging waste. This
4 subsection does not allow for the reimbursement of costs associated
5 with the disposal of packaging.

6 (d) Costs incurred by the packaging reduction organization for
7 projects and programs, including, but not limited to, grant
8 programs, that will help meet the requirements of sections 17710
9 and 17711. Not less than 25% of the total funds annually collected
10 under section 17708 shall be expended for the purposes of this
11 subdivision. All of the following apply to appropriations for the
12 purposes of this subdivision:

13 (i) Funds may be used for investment in any of the following:

14 (A) Collection systems.

15 (B) Transportation systems.

16 (C) Reuse systems.

17 (D) Washing systems.

18 (E) Redistribution systems.

19 (F) Technology for tracking and data collection.

20 (G) Capital expenditures on new and emerging technology
21 focused on reusable and refillable packaging.

22 (H) Other systems and equipment determined by the department
23 to facilitate the objectives of this part.

24 (ii) Funds may also be used for investment in public outreach
25 and education that increase access and participation in packaging
26 reduction, reuse, refill, and recycling systems throughout this
27 state.

28 (iii) The packaging reduction organization shall prioritize
29 investments for projects that will directly benefit environmental

1 justice communities.

2 (4) Any investments made under section 17709(3)(d) must be
3 approved by the department. The department shall approve or deny
4 proposed investments within 90 days after receipt of a proposal
5 from the packaging reduction organization. The department may
6 approve a proposed investment if the proposed investment will meet
7 all of the following requirements:

8 (a) Increase the transition of packaging from nonreusable to
9 reduced, reusable, or refillable packaging.

10 (b) Increase access to reuse and refill infrastructure in this
11 state.

12 (c) Increase the capacity of reuse and refill infrastructure
13 in this state.

14 (i) Provide reuse and refill instructions that are, to the
15 extent practicable, consistent statewide, easy to understand,
16 translated into various commonly used languages, and easily
17 accessible.

18 (ii) Provide for outreach and education that are both of the
19 following:

20 (A) Coordinated across programs or regions to avoid confusion
21 for residents.

22 (B) Developed in consultation with local governments and the
23 public.

24 Sec. 17710. (1) A producer shall do all of the following:

25 (a) Beginning 2 years after the producer first registers with
26 the packaging reduction organization, reduce the amount of
27 packaging used to contain, protect, deliver, present, or distribute
28 products that the producer sells, offers for sale, or distributes
29 for sale into this state, by 10% by weight.

1 (b) Beginning 4 years after the producer first registers with
2 the packaging reduction organization, reduce the amount of
3 packaging used to contain, protect, deliver, present, or distribute
4 products that the producer sells, offers for sale, or distributes
5 for sale into this state, by 20% by weight.

6 (c) Beginning 6 years after the producer first registers with
7 the packaging reduction organization, reduce the amount of
8 packaging used to contain, protect, deliver, present, or distribute
9 products that the producer sells, offers for sale, or distributes
10 for sale into this state, by 30% by weight.

11 (d) Beginning 8 years after the producer first registers with
12 the packaging reduction organization, reduce the amount of
13 packaging used to contain, protect, deliver, present, or distribute
14 products that the producer sells, offers for sale, or distributes
15 for sale into this state, by 40% by weight.

16 (e) Beginning 10 years after the producer first registers with
17 the packaging reduction organization, reduce the amount of
18 packaging used to contain, protect, deliver, present, or distribute
19 products that the producer sells, offers for sale, or distributes
20 for sale into this state, by 50% by weight.

21 (2) The reductions under subsection (1) shall be measured
22 against the total amount of packaging the producer used to contain,
23 protect, deliver, present, or distribute products the producer
24 sold, offered for sale, or distributed in this state, during the
25 first year the producer registered with the packaging reduction
26 organization.

27 (3) The reductions under subsection (1) may be achieved by
28 using any of the following strategies:

29 (a) Elimination of packaging components.

1 (b) Reduction of packaging components.

2 (c) Using reuse and refill systems.

3 (d) Packaging rightsizing, light weighting, and optimization.

4 (4) The weight reductions required under subsection (1) shall
5 not be achieved by substituting plastic for other materials.

6 (5) If, when a producer enters the market, 50% or more by
7 weight of its packaging is reusable and contained within a reuse
8 and refill system, upon application from the producer, the
9 department shall waive the packaging reduction requirements.

10 Sec. 17711. (1) A producer shall ensure that the packaging
11 used to contain, protect, deliver, present, or distribute the
12 products that the producer sells, offers for sale, or distributes
13 into this state is made of a material that meets the following
14 applicable annual recycling rate:

15 (a) Not less than 30% within 5 years after the effective date
16 of the amendatory act that added this section.

17 (b) Not less than 50% within 8 years after the effective date
18 of the amendatory act that added this section.

19 (c) Not less than 70% within 12 years after the effective date
20 of the amendatory act that added this section.

21 (2) The requirements of subsection (1) do not apply to
22 reusable or refillable packaging or containers.

23 Sec. 17712. (1) Beginning 2 years after the promulgation of
24 rules under section 17714, an individual or entity shall not sell,
25 offer for sale, or distribute in this state packaging containing
26 any of the following toxic substances:

27 (a) An ortho-phthalate.

28 (b) A bisphenol.

29 (c) A per- or polyfluoroalkyl substance (PFAS).

- (d) Lead or a lead compound.
- (e) Hexavalent chromium or a hexavalent chromium compound.
- (f) Cadmium or a cadmium compound.
- (g) Mercury or a mercury compound.
- (h) Benzophenone or a benzophenone derivative.
- (i) A halogenated flame retardant.
- (j) Perchlorate.
- (k) Formaldehyde.
- (l) Toluene.
- (m) Antimony or an antimony compound.
- (n) UV-328 (2-(2H-benzotriazol-2-yl)-4,6-ditert-pentylphenol).
- (o) Polyvinyl chloride.
- (p) Polystyrene.
- (q) Polycarbonate.

(2) Beginning 3 years after the promulgation of rules under section 17714, and every 3 years thereafter, the department shall designate at least 10 additional toxic substances or families of toxic substances that shall no longer be sold, offered for sale, or distributed in this state for use in packaging unless it determines there are not at least 10 toxic substances sold, offered for sale, or distributed in this state for use in packaging. If the department determines there are not at least 10 such toxic substances remaining to be designated, it shall publish a detailed statement of its findings supporting the determination and designate those toxic substances that do remain.

(3) Within 180 days after designating a toxic substance, the department shall promulgate rules under section 17714 to prohibit the newly designated toxic substance in packaging, with an effective date not later than 2 years after the designation.

1 Sec. 17713. (1) The department shall establish an office of
2 inspector general, consistent with section 3(a) of the executive
3 organization act of 1965, 1965 PA 380, MCL 16.103, within the
4 department. The office of inspector general shall evaluate the
5 programs created by this part on an annual basis to ensure that it
6 is properly functioning and that producers are in compliance with
7 the requirements of this part.

8 (2) The office of inspector general shall investigate the
9 compliance of producers.

10 (3) The state treasurer shall conduct an annual audit of the
11 program under this part, including, but not limited to, all of the
12 following:

13 (a) The amount of money received by the program.

14 (b) The amount of money provided by the program to local
15 governments.

16 (c) The amount of money expended for reduction, recycling, and
17 reuse programs and services by the packaging reduction organization
18 and any state agencies.

19 (d) The amount of packaging discarded, reduced, and recycled
20 in this state.

21 (e) Any recommendations for improvement of the program under
22 this part.

23 Sec. 17714. (1) By 1 year after the effective date of the
24 amendatory act that added this section, the department shall
25 promulgate rules necessary to implement this part pursuant to the
26 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
27 24.328.

28 (2) The rules promulgated by the department under this section
29 shall include at least all of the following:

1 (a) A process for contracting with the packaging reduction
2 organization under section 17704.

3 (b) A process for annually determining producer fees under
4 section 17708 and assessing those fees.

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

7 (d) A process for evaluating whether a producer is in
8 compliance with section 17710.

9 (e) A process for evaluating whether a producer is in
10 compliance with section 17711.

11 (f) A process for evaluating whether a producer is in
12 compliance with section 17712.

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

15 (h) A process for the assessment of the packaging reduction
16 organization and the packaging reduction and recycling program.

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

21 (j) A process for establishing and enforcing fines for
22 violations of the requirements of this part.

23 (k) A process for determining new toxic substances in
24 packaging under section 17712.

25 (l) A process for department oversight and monitoring of the
26 packaging reduction organization's management of the packaging
27 reduction fund, including, but not limited to, a process for
28 submitting and reviewing proposals from the packaging reduction
29 organization regarding investments in projects and programs that

1 will help meet the requirements of sections 17710 and 17711.

2 (m) A process for determining whether information is
3 proprietary information and therefore must be handled as
4 confidential information.

5 Sec. 17715. (1) The department, the office of inspector
6 general, and the attorney general shall do both of the following:

7 (a) Conduct investigations, including inspecting operations,
8 facilities, and records of producers and the packaging reduction
9 organization.

10 (b) Perform audits of producers and the packaging reduction
11 organization to determine whether entities are complying with the
12 requirements of this part.

13 (2) The department, the office of inspector general, or the
14 attorney general shall notify the packaging reduction organization
15 or a producer of any of the following:

16 (a) A violation by the packaging reduction organization or
17 producer of this part or a rule promulgated under this part.

18 (b) Inconsistencies identified in an audit under this part.

19 (3) The department, the office of inspector general, and the
20 attorney general shall coordinate in the enforcement of this part.

21 (4) The department shall issue a notice of violation to, and,
22 after providing an opportunity for a hearing, impose an
23 administrative fine not to exceed \$100,000.00 per day per violation
24 on, any entity that violates this part or a rule promulgated under
25 this part. The department shall advise the attorney general of the
26 failure of any person to pay an administrative fine imposed under
27 this section. The attorney general shall bring an action in court
28 of competent jurisdiction to recover the fine. The department may
29 order the packaging reduction organization to suspend the

1 registration under section 17705 of a producer that is in default
2 in the payment of a fine under this section.

3 (5) For the purposes of this section, each product line that
4 is sold, offered for sale, or distributed in this state to
5 consumers, through retail commerce, including through an internet
6 transaction, and with respect to which a violation occurs, shall be
7 considered the basis for a separate violation.

8 (6) Fines collected under this section shall be deposited into
9 the packaging reduction fund.

10 Sec. 17716. (1) Any 10 citizens of this state may commence a
11 civil action on their behalf against any individual or entity,
12 including this state, the department, the packaging reduction
13 organization, an individual or group of producers, and the office
14 of inspector general, alleged to be in violation of the
15 requirements of this part or rules promulgated under this part, for
16 declaratory or equitable relief for the enforcement of this part or
17 rules promulgated under this part.

18 (2) An action shall not be commenced under this section unless
19 the plaintiffs have given the prospective defendants at least 30
20 days' advance notice of the intention to commence the action.

21 (3) In any action brought under this section, the department,
22 if not a party, may intervene as a matter of right.

23 (4) Subject to subsections (1) to (3), the proceedings in an
24 action under this section shall be conducted, to the extent
25 applicable, in the manner provided for an action under part 17.

26 Enacting section 1. This amendatory act takes effect January
27 1, 2025.