

Minnesota HB 3911 EPR Legislation Summary

Geralyn Lasher provided the summary below to members of the WI Recycling Subcommittee on 6/6/24:

Minnesota Governor Walz has signed into law [MN HB 3911](#), the conference committee report that included the creation of “Packaging Waste and Cost Reduction Act” that implements an Extended Producer Responsibility (EPR) program in Minnesota. The plan operates on rather tight timelines for initial organizational activities, and the Minnesota Pollution Control Agency (MPCA) is still trying to determine next steps so we will continue to update you on specifics. Also attached is a summary article from the Star Tribune.

At this point, the language calls for the establishment of the program as “Producers must implement and finance a statewide program for packaging and paper products in accordance with this act that encourages redesign to reduce the environmental impacts and human health impacts and that reduces generation of covered materials waste through waste reduction, reuse, recycling, and composting and by providing for the collection, transportation, and processing of used covered materials for reuse, recycling, and composting.”

Under the law “covered materials” include paper, cardboard, plastic, metal, cans, or glass. Producers under the law include any who sell or distribute into the state via e-commerce, remote sale, or distribution.

By January 1, 2025, producers must appoint one Producer Responsibility Organization (PRO) and the PRO must register with the Commissioner of MPCA by July 1, 2026. Each January 1 thereafter, the PRO must also submit:

- All written agreements with each producer
- List of board members
- Documentation to demonstrate financial responsibility and financial controls to ensure ability to pay what the Commissioner estimates to be the initial fees. These fee notices will be provided by the Commissioner by February 15, 2025, and annually until February 15, 2028, and the PRO must pay the full cost of these fees within 45 days.
- The PRO may charge each member producer a fee according to each producer’s unit/weight/volume/or sales-based market share or by another method it determines to be equitable.

Beginning January 1, 2029, as part of its annual registration, the PRO must submit a registration fee as provided by the Commissioner and the Commissioner must provide written notice of the amount the registration fee will be by October 1, 2028.

The Commissioner must establish and appoint the 18 members to the PRO Advisory Board by January 1, 2025. The Advisory board must meet at least two times per year and comply with the Open Meeting Law. The first meeting must be held by March 1, 2025.

The Commissioner must complete a preliminary assessment by December 31, 2025, and complete an initial need assessment by December 31, 2026. The Commissioner is also responsible for approving stewardship plans.

The PRO must submit a stewardship plan to the Commissioner by October 1, 2028, and every five years thereafter. The PRO must also ensure producers comply with the stewardship plan.

After January 1, 2029, no producer may introduce covered materials unless the producer enters into a written agreement with a PRO to operate under an approved stewardship plan.

After January 1, 2032, no producer may introduce covered materials unless covered services are provided for the covered materials through a program approved in the stewardship plan and the materials are reusable and capable of being managed through a reuse system, or capable of refill and supported by a refill system.

The Commissioner must establish statewide requirements and the date by which they must be met for the following categories and must also review these requirements every five years:

- Recycling rate
- Composting rate
- Reuse rate
- Return rate
- Percentage of covered materials introduced that must be waste reduced
- The percentage of post-consumer recycled content that covered materials must contain

Bottle Deposit System

If a bottle deposit return system is enacted in the future, it will be harmonized with this act in a manner that ensures that:

- materials covered in that system are exempt from this act or related financial obligations are reduced;
- colocation of drop-off collection sites is maximized;
- education and outreach is integrated between the two programs; and
- waste reduction and reuse strategies are prioritized between the two programs.

Any implementation of a deposit return system must include a two-year transition period before the expiration of the currently approved stewardship plan and be conducted in a manner that does not create sudden and significant operational or financial disruption to the implementation of a stewardship plan.

Penalties

Civil penalties not to exceed \$25,000 per day of violation could be imposed for violating or failing to perform a duty imposed by this act. A PRO or Producer that violates or fails to perform a duty is liable for a civil penalty not to exceed \$25,000 per day of violation. For the second violation within five years, the PRO or Producer is liable for a civil penalty not to exceed \$50,000 per day. For a third or subsequent violation occurring within five years, the PRO or Producer is liable for a civil penalty not to exceed \$100,000 per day of violation.

Studies

By January 1, 2032, the commissioner of the Pollution Control Agency must contract with a third party to conduct a study of the recycling, composting, and reuse facilities operating in the state, with a focus on workplace conditions and equity. The PRO must cover the cost of conducting the study.

By January 1, 2032, the commissioner of the Pollution Control Agency, in consultation with the commissioners of health and natural resources, must contract with a third party to conduct a study to identify the contribution of covered products to litter and water pollution in Minnesota. The PRO must cover the cost of conducting the study.

Again, we will continue to update you as more information becomes available.

Thanks,
Geraldyn

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