

**PROPOSED AMENDMENTS TO
HOUSE BILL 3251**

1 On page 1 of the printed bill, delete lines 5 through 32 and delete pages
2 2 through 6 and insert:

3 **“SECTION 1. The Legislative Assembly finds and declares that it is**
4 **in the best interest of this state for manufacturers of products for**
5 **household use that contain hazardous substances to take responsibility**
6 **for:**

7 **“(1) Developing, financing and implementing a statewide system to**
8 **conveniently serve the urban and rural areas of this state, for the**
9 **collection and environmentally sound management of household haz-**
10 **ardous waste; and**

11 **“(2) Developing and implementing strategies to reduce the use of**
12 **practices and products that generate household hazardous waste.**

13 **“SECTION 2. As used in sections 1 to 10 of this 2015 Act:**

14 **“(1) ‘Brand’ means a name, symbols, words or marks that identify**
15 **a covered product and attribute the product to the owner of the brand**
16 **as the manufacturer.**

17 **“(2)(a) ‘Covered product’ means:**

18 **“(A) Any product offered for retail sale for household use if the**
19 **product has any of the following characteristics:**

20 **“(i) The physical properties of the product meet the criteria for**
21 **characteristic wastes under the federal Resource Conservation and**
22 **Recovery Act of 1976 (P.L. 94-580, 42 U.S.C. 6901 et seq.), including**

1 **ignitability, corrosivity, reactivity, or toxicity as defined in 40 C.F.R.**
2 **261 subpart C.**

3 **“(ii) The product contains any substance that meets the criteria for**
4 **designation as a class 2, 3, 4, 5, 6 or 8 hazardous material, as defined**
5 **in 49 C.F.R. 173, by the United States Department of Transportation**
6 **pursuant to the Hazardous Materials Transportation Act (P.L. 93-622,**
7 **49 U.S.C. 5101 et seq. (1975)), as amended and in effect on the effective**
8 **date of this 2015 Act.**

9 **“(iii) The product is a marine pollutant as defined at 49 C.F.R. 171.8.**

10 **“(iv) The product requires registration under the Federal**
11 **Insecticide, Fungicide and Rodenticide Act (P.L. 92-516, 7 U.S.C. 136**
12 **(1972)), as amended and in effect on the effective date of this 2015 Act.**

13 **“(B) The container in which a product described in subparagraph**
14 **(A) of this section is contained.**

15 **“(b) ‘Covered product’ does not mean:**

16 **“(A) A primary or rechargeable battery.**

17 **“(B) Lamps that contain mercury.**

18 **“(C) Thermostats that contain mercury.**

19 **“(D) Pharmaceutical drugs.**

20 **“(3) ‘Environmentally sound management’ means management us-**
21 **ing practices that comply with all applicable laws, including but not**
22 **limited to:**

23 **“(a) Adequate record keeping;**

24 **“(b) Tracking and documentation of the fate of covered products**
25 **from collection through final disposition within this state and outside**
26 **this state;**

27 **“(c) Performance audits and inspections;**

28 **“(d) Compliance with worker health and safety requirements; and**

29 **“(e) Maintenance of adequate environmental liability insurance and**
30 **financial assurances for a stewardship organization and contractors**

1 **working for the stewardship organization.**

2 **“(4) ‘Final disposition’ means the point beyond which no further**
3 **processing takes place and the covered product has been:**

4 **“(a) Transformed for direct use as a feedstock in producing new**
5 **products; or**

6 **“(b) Disposed of or processed for energy recovery in permitted fa-**
7 **cilities.**

8 **“(5) ‘Manufacturer’ means any person, irrespective of the selling**
9 **technique used, including by means of remote sale:**

10 **“(a) That manufactures covered products under a brand that it**
11 **owns or is licensed to use;**

12 **“(b) That sells covered products manufactured by others under a**
13 **brand that the seller owns;**

14 **“(c) That manufactures covered products without affixing a brand;**

15 **“(d) That manufactures covered products to which it affixes a brand**
16 **that it does not own; or**

17 **“(e) On whose account covered products manufactured outside the**
18 **United States are imported into the United States. This subparagraph**
19 **does not apply if, at the time the covered products are imported into**
20 **the United States, another person is registered as the owner of the**
21 **brand of the covered products.**

22 **“(6) ‘Orphan product’ means a covered product for which no man-**
23 **ufacturer can be identified.**

24 **“(7) ‘Person’ means the United States, the state or a public or pri-**
25 **ivate corporation, local government unit, public agency, individual,**
26 **partnership, association, firm, trust, estate or other legal entity.**

27 **“(8) ‘Pharmaceutical drugs’ means any product sold for human**
28 **medical or veterinary use, including prescription, nonprescription,**
29 **brand name and generic drugs.**

30 **“(9) ‘Premium service’ means a service such as at-home pickup**

1 service, including curbside pickup service.

2 “(10) ‘Primary battery’ means any nonrechargeable battery, in-
3 cluding but not limited to alkaline, carbon-zinc and lithium metal.

4 “(11) ‘Rechargeable battery’ means one or more voltaic or galvanic
5 cells, electrically connected to produce electric energy and designed
6 to be recharged.

7 “(12) ‘Retailer’ means a person that offers new covered products for
8 sale at retail through any means, including but not limited to remote
9 offerings such as sales outlets, catalogs or the Internet.

10 “(13) ‘Return share’ means the minimum total weight of covered
11 products for which a stewardship organization is responsible for pro-
12 viding environmentally sound management under an approved
13 stewardship plan.

14 “(14) ‘Stewardship organization’ means a corporation, nonprofit or-
15 ganization or other legal entity created by a manufacturer or group
16 of manufacturers to implement a stewardship program as described in
17 sections 1 to 10 of this 2015 Act.

18 “(15) ‘Stewardship program’ means a statewide program for the
19 environmentally sound management of covered products that is oper-
20 ated by a stewardship organization pursuant to a plan approved by the
21 Department of Environmental Quality under section 6 of this 2015 Act.

22 **“SECTION 3. (1) A manufacturer or retailer may not sell or offer
23 for sale any covered product to any person in this state unless:**

24 **“(a) The covered product is labeled with a brand; and**

25 **“(b) The brand is included in a plan for a stewardship program that
26 is submitted to and approved by the Department of Environmental
27 Quality pursuant to sections 5 and 6 of this 2015 Act.**

28 **“(2) The manufacturer or retailer must provide to consumers, at
29 the time of sale, information on available collection opportunities for
30 the covered product through the approved program.**

1 **“(3) A retailer is in compliance with subsection (1) of this section**
2 **if, on the date the covered product is ordered from the manufacturer**
3 **or its agent, the website maintained by the manufacturer’s**
4 **stewardship organization lists the manufacturer, along with the**
5 **manufacturer’s covered product brand, as a participant in an approved**
6 **stewardship program.**

7 **“SECTION 4. (1) Before January 1 of each year, a stewardship or-**
8 **ganization for covered products sold or offered for sale in this state**
9 **shall register with the Department of Environmental Quality on a**
10 **form provided by the department. The registration shall include:**

11 **“(a) A list of all manufacturers that are participating in the**
12 **stewardship organization.**

13 **“(b) A list of all the brands manufactured, sold or imported by the**
14 **manufacturers participating in the stewardship organization, including**
15 **those brands being offered for sale in this state by the manufacturers.**

16 **“(c) Any other information required by the department to imple-**
17 **ment sections 1 to 10 of this 2015 Act.**

18 **“(2) Not later than July 1 of each year, a stewardship organization**
19 **for covered products sold or offered for sale in this state shall pay an**
20 **administrative fee to the department.**

21 **“(3) The administrative fee required under subsection (2) of this**
22 **section shall be in an amount prescribed by the Environmental Quality**
23 **Commission by rule, based on the estimated weight of covered pro-**
24 **ducts to be collected under the plan submitted by the stewardship or-**
25 **ganization for the upcoming year, that is sufficient to cover the**
26 **anticipated costs of the department in implementing the stewardship**
27 **program.**

28 **“SECTION 5. (1) A stewardship organization shall submit a plan to**
29 **the Department of Environmental Quality at the time of payment of**
30 **the administrative fee required under section 4 of this 2015 Act.**

1 **“(2) The stewardship organization’s plan must describe how the**
2 **stewardship organization will:**

3 **“(a) Finance, manage and conduct a statewide stewardship program**
4 **to collect covered products from households in this state.**

5 **“(b) Provide for the environmentally sound management of its re-**
6 **turn share of covered products.**

7 **“(c) Provide for public education on reducing the use of covered**
8 **products and increasing the use of nonhazardous alternative products**
9 **when they are available.**

10 **“(d) Provide for advertising and promotion of collection opportu-**
11 **nities statewide and on a regular basis.**

12 **“(e) Coordinate with an architectural paint stewardship program**
13 **as described in ORS 459A.820 to 459A.855.**

14 **“(f) Provide for convenient service in every county in this state,**
15 **including:**

16 **“(A) Establishing enough permanent collection sites that ___ per-**
17 **cent of the population of the state is located within __ miles of a per-**
18 **manent collection site; and**

19 **“(B) Holding at least ___ collection events for covered products per**
20 **year to serve each underserved area or county in this state that does**
21 **not have a permanent collection site. Collection sites shall be staffed**
22 **and open to the public at a frequency adequate to meet the needs of**
23 **the area being served. Two or more stewardship programs may provide**
24 **collection service jointly.**

25 **“(3) In operating a stewardship program, a stewardship organization**
26 **shall:**

27 **“(a) Implement the plan required under this section no later than**
28 **90 days after the Department of Environmental Quality approves the**
29 **plan.**

30 **“(b) Meet or exceed the requirements for providing convenient ser-**

1 vice as described in subsection (2) of this section.

2 “(c) Offer publicly owned or publicly contracted household hazard-
3 ous waste collection sites the first opportunity to participate as col-
4 lection sites.

5 “(d) Provide for the environmentally sound management of covered
6 products free of charge, except that a stewardship organization that
7 provides premium service for a household may charge for the addi-
8 tional cost of that premium service.

9 “(e) Notify retailers that sell covered products made or sold by
10 manufacturers participating in the stewardship organization about the
11 stewardship program and provide the retailers with information about
12 available collection opportunities that the retailers will need in order
13 to comply with section 3 (2) of this 2015 Act.

14 “(f) By March 1 of each year, provide a report to the department
15 that details how the plan required under this section was implemented
16 during the previous calendar year.

17 “(g) Establish and maintain a website that provides information
18 about collection sites under the program and lists manufacturers par-
19 ticipating in the stewardship organization under the plan and covered
20 products that are sold or offered for sale in this state by participating
21 manufacturers.

22 **“SECTION 6. (1) The Department of Environmental Quality shall**
23 **review and, no later than 90 days after the date that a stewardship**
24 **organization plan is submitted under section 5 of this 2015 Act, approve**
25 **stewardship organization plans that comply with section 5 of this 2015**
26 **Act.**

27 **“(2) Notwithstanding section 5 (3) of this 2015 Act, if the department**
28 **determines that a plan does not provide convenient service in a county**
29 **where a publicly owned or publicly contracted household hazardous**
30 **waste collection site is located, the department may require a**

1 **stewardship organization to pay the collection site for the collection**
2 **of covered products. Payments by a stewardship organization under**
3 **this subsection shall only include payment for the direct costs to the**
4 **collection site of receiving and preparing covered products for trans-**
5 **port to processors or disposal facilities. Charges to the stewardship**
6 **organization may not exceed the actual costs of providing those ser-**
7 **vices.**

8 **“(3)(a) For calendar years 2016 and 2017, the department shall cal-**
9 **culate the weight of covered products managed in this state during the**
10 **previous calendar year using information supplied by household haz-**
11 **ardous waste collection sites in the state and establish a statewide**
12 **collection target for the calendar year that exceeds the previous year**
13 **by ___ percent.**

14 **“(b) No later than March 31 of calendar years 2016 and 2017, re-**
15 **spectively, the department shall inform each registered stewardship**
16 **organization of its return share by weight of covered products for the**
17 **next calendar year.**

18 **“(4) For calendar year 2018 and subsequent years, the department**
19 **shall:**

20 **“(a) Determine statewide and county weight-based collection tar-**
21 **gets for covered products;**

22 **“(b) Set an annual minimum return share for each stewardship**
23 **program that enables the state to reach the statewide and county**
24 **weight-based collection targets;**

25 **“(c) Require stewardship organizations that have not met their re-**
26 **turn shares for the previous calendar year to pay the department for**
27 **the amount not achieved at a rate determined by the department to**
28 **be equivalent to the average cost per pound to the stewardship or-**
29 **ganization for the environmentally sound management of covered**
30 **products during the previous calendar year; and**

1 “(d) Establish a system for granting credits to a stewardship pro-
2 gram for the collection, transport and recycling of covered products
3 in an amount that exceeds the stewardship program’s return share for
4 a calendar year.

5 “(5) The department shall report biennially to the Legislative As-
6 sembly on the operation of the statewide system for the environ-
7 mentally sound management of covered products.

8 “SECTION 7. The Environmental Quality Commission may adopt
9 rules as necessary to implement sections 1 to 10 of this 2015 Act.

10 “SECTION 8. (1) In accordance with the applicable provisions of
11 ORS chapter 183 relating to contested case proceedings, the Depart-
12 ment of Environmental Quality may issue an order requiring compli-
13 ance with the provisions of sections 1 to 10 of this 2015 Act.

14 “(2) The department may bring an action against any manufacturer
15 or stewardship organization in violation of the provisions of sections
16 1 to 10 of this 2015 Act.

17 “SECTION 9. Fees collected by the Department of Environmental
18 Quality under section 4 of this 2015 Act shall be deposited in the State
19 Treasury to the credit of the Household Hazardous Waste Stewardship
20 Fund established under section 10 of this 2015 Act.

21 “SECTION 10. The Household Hazardous Waste Stewardship Fund
22 is established, separate and distinct from the General Fund. Interest
23 earned by the Household Hazardous Waste Stewardship Fund shall be
24 credited to the fund. Moneys in the fund are continuously appropriated
25 to the Department of Environmental Quality and may be used only to
26 pay the costs of implementing sections 1 to 10 of this 2015 Act.

27 “SECTION 11. ORS 459.415 is amended to read:

28 “459.415. (1) Before any local government **unit or stewardship organ-**
29 **ization operating a household hazardous waste stewardship program**
30 **under sections 1 to 10 of this 2015 Act** operates a permanent collection

1 depot or periodic collection events for household hazardous waste or haz-
2 arduous waste generated by conditionally exempt small quantity generators,
3 the local government **unit or stewardship organization** shall receive writ-
4 ten approval from the Department of Environmental Quality.

5 “(2) In requesting written approval from the department, a local govern-
6 ment unit **or stewardship organization** proposing to operate a permanent
7 collection depot or periodic collection events shall submit a detailed pro-
8 posal. The proposal shall include at least the following information:

9 “(a) Measures to be taken to insure safety of the public and employees
10 or volunteers working at the collection site;

11 “(b) Measures to be taken to prevent spills or releases of hazardous waste
12 and a plan to respond to a spill or release if one occurs;

13 “(c) A copy of the request for proposals for a contractor to properly
14 manage and recycle or dispose of the waste collected in a manner consistent
15 with the rules of the Environmental Quality Commission for hazardous waste
16 collection, storage, transportation and disposal; and

17 “(d) Measures to be implemented to insure no waste is accepted from
18 generators of hazardous waste subject to regulation under ORS 466.005 to
19 466.385 unless the intent is to specifically collect such waste.

20 “(3) The department may request additional information about the pro-
21 posed program from the local government unit **or stewardship**
22 **organization**. The department shall not approve a program unless the pro-
23 gram provides adequate provisions to protect the public health, safety and
24 the environment.

25 **“SECTION 12. Sections 1 to 10 of this 2015 Act and the amendment**
26 **to ORS 459.415 by section 11 of this 2015 Act apply to all manufacturers**
27 **engaging in the activities set forth in section 1 (5) of this 2015 Act**
28 **before, on or after January 1, 2016.**

29 **“SECTION 13. Notwithstanding section 4 (3) of this 2015 Act, the**
30 **administrative fee required to be paid by July 1, 2016, under section 4**

1 of this 2015 Act shall be set at \$0.025 per pound of covered product to
2 be managed under the stewardship organization's plan.

3 **“SECTION 14. (1) Sections 1 to 10 of this 2015 Act and the amend-**
4 **ments to ORS 459.415 by section 11 of this 2015 Act become operative**
5 **on January 1, 2016.**

6 **“(2) The Environmental Quality Commission and the Department**
7 **of Environmental Quality may take any action before the operative**
8 **date specified in subsection (1) of this section that is necessary for the**
9 **commission or the department to exercise, on and after the operative**
10 **date specified in subsection (1) of this section, all of the duties, func-**
11 **tions and powers conferred on the commission or the department by**
12 **sections 1 to 10 of this 2015 Act and the amendments to ORS 459.415**
13 **by section 11 of this 2015 Act.”.**

14
