

# SENATE ENVIRONMENT AND ENERGY COMMITTEE

## STATEMENT TO

### SENATE, No. 3398

# STATE OF NEW JERSEY

DATED: FEBRUARY 10, 2025

The Senate Environment and Energy Committee reports favorably a Senate Committee Substitute for Senate Bill No. 3398.

This bill, to be known as the "Packaging and Paper Product Stewardship Act," would require producers of packaging and paper products to develop and implement product stewardship plans to provide for better end-of-life management of their products. The bill would authorize producers of products covered under the bill to join a producer responsibility organization (PRO), which would collect fees from its members to develop and administer a joint product stewardship plan on behalf of its members.

The bill would define "packaging product" broadly to include any product or material designed and used for the containment, protection, handling, delivery, or presentation of another product, whether constituted of paper, plastic, glass, metal, or any other material. Similarly, the bill would define "paper product" to include any product made primarily from wood pulp or other cellulosic fibers, with certain limited exceptions. Section 15 of the bill would establish several exemptions from the provisions of the bill, including for the packaging of drugs, dietary supplements, medical devices, and cosmetics. Section 15 also contains an exemption for "small producers," as that term is defined by the bill. Section 3 of the bill would establish a procedure to determine who would be considered the producer of a given product, based on who manufactures or publishes the product, who is owner or licensee of the trademark under which the product is used or sold, and other factors.

The bill would require each producer of a product covered under the bill to join a PRO one year after the bill's enactment, unless the producer opts to independently develop and implement a product stewardship plan. The PRO would require the approval of the Department of Environmental Protection (DEP), subject to certain requirements enumerated in section 4 of the bill. The bill would initially allow for the formation of only one PRO. However, commencing January 1, 2029, producers would be authorized to apply to the DEP for the formation of additional PROs.

The bill would require the PRO to prepare, no later than two years after the bill's enactment, a needs assessment of the State's existing recycling and solid waste regulations and infrastructure with regards to paper and packaging products, which is designed to determine the

necessary steps and investments, in both the private and public sector, needed to effectuate the requirements of the bill. The needs assessment would be required to be updated every five years. The bill would permit the PRO to contract with a DEP-approved third-party to carry out the needs assessment. Section 5 of the bill would establish various additional requirements for the scope and content of the needs assessment.

Section 6 of the bill would establish certain source reduction and recyclability requirements for packaging products, which each producer of these products would be required to achieve. For example, it would require that, by two years after the approval of a stewardship plan, the amount of single-use plastic packaging products sold by a producer be reduced to 90 percent of the baseline value. This requirement would gradually increase, culminating in the final requirement that, by 10 years after the approval of a stewardship plan, the amount of single-use plastic packaging products sold by a producer be reduced to 50 percent of the baseline value. The bill would also require that 10 percent of the reduction be achieved by shifting a single use packaging product to a refillable or reusable product, or by eliminating a plastic component. In addition, section 6 of the bill would require that, by January 1, 2034, all packaging products sold by the producer are either compostable or recyclable and that, by January 1, 2036, all packaging products sold by the producer are recycled at a rate of at least 65 percent.

Section 7 of the bill would require the PRO (and any producers who elect to not join the PRO) to submit a draft product stewardship plan to the Advisory Council on Solid Waste Management established pursuant to section 7 of P.L.1970, c.39 (C.13:1E-7). The PRO or producer would be required to incorporate any comments to the draft stewardship plan, and then submit a final plan to the DEP for approval. Section 7 of the bill would establish various requirements for the content of the stewardship plan, including requirements for the fees a PRO would charge to its members, which would be required to be correlated to the environmental burden associated with the production and disposal of the member's products. Section 8 of the bill would establish the process by which the DEP would review and approve the product stewardship plans. Section 9 of the bill would establish the process by which a service provider (i.e., entities that provide collection, transportation, recycling, composting, or other waste-reduction services for paper and packaging products) could seek to be reimbursed by the PRO for its role in implementing the PRO's product stewardship plan.

The bill would also establish the "Packaging and Paper Reduction and Recycling Fund" in the Department of the Treasury. Moneys in the fund would be used to (1) fund efforts to improve the State's recycling and solid waste system, as identified in the Statewide needs assessment, in the form of grants or low-interest loans issued by the

DEP, (2) to administer and enforce the provisions of the bill, or (3) to otherwise implement an approved product stewardship plan. Each PRO (and any producers not participating in a PRO) would be assessed an annual surcharge by the Division of Taxation in the Treasury, and the moneys from the surcharge would be placed in the "Packaging and Paper Reduction and Recycling Fund." The total Statewide surcharge would be the amount needed during the following fiscal year to administer and enforce the bill's provisions and improve the State's recycling and solid waste system in order to meet the source reduction and other requirements established by section 6 of the bill, as determined by the Statewide needs assessment, up to a maximum of \$120 million. The amount owed by each PRO or non-participating producer would be a prorated share of this total amount.

Section 16 of the bill would establish an Office of Plastics and Packaging Management in the DEP. The purpose of the office would be to oversee the administration and enforcement of this bill, P.L.2020, c.117 (C.13:1E-99.126 et al.), P.L.2021, c.391 (C.13:1E-99.135 et seq.), and any other law dealing with pollution from plastic and other packaging. The office would include an Inspector General, who would, among other things, act as a liaison between the DEP, the Department of Law and Public Safety, county prosecutor's offices, and other local governments, regarding the enforcement of laws under the purview of the office. Section 17 of the bill would establish a Toxic Packaging Task Force, composed of the DEP commissioner or a designee and six members of the public, appointed by the DEP commissioner and the presiding officers of the Legislature. The task force would be charged with recommending additional chemicals to regulate under the "Toxic Packaging Reduction Act," P.L.1991, c.520 (C.13:1E-99.44 et seq.).

The bill would amend existing law to modify the membership of, and add several duties regarding the implementation of the bill's provisions to, the Advisory Council on Solid Waste Management, including a duty to review product stewardship plans submitted by PROs and non-participating producers. The revised membership of the council would include the Commissioner of Environmental Protection, the Commissioner of Health, and 15 members of the public appointed by the Commissioner of Environmental Protection. The bill would require the appointment of new members within 90 days after the bill's enactment.

The bill would also amend the "Toxic Packaging Reduction Act" to prohibit, commencing two years after the bill's enactment, the sale of packaging, and products that are packaged in packaging, which contains certain substances, including toxic metals, per- and polyfluoroalkyl substances (PFAS), and vinyl chloride. Under current law, only packaging that contains lead, mercury, cadmium, or hexavalent chromium is restricted under the "Toxic Packaging Reduction Act." In addition, under the bill, packaging containing any

quantity of lead, mercury, cadmium, or hexavalent chromium would be prohibited from sale. Current law allows for the incidental presence of these chemicals at certain concentrations. Persons who violate the provisions of the "Toxic Packaging Reduction Act" are liable to civil and civil administrative penalties of up to \$7,500 per day of noncompliance, for a first offense. Finally, section 21 of the bill would establish certain exceptions to the bill's provisions concerning toxic substances in packaging, including for drugs, medical devices, dietary supplements, and medical equipment.