



House of Representatives

General Assembly

File No. 430

January Session, 2021

Substitute House Bill No. 6386

House of Representatives, April 14, 2021

The Committee on Environment reported through REP. GRESKO of the 121st Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING EXTENDED PRODUCER RESPONSIBILITY FOR TIRES, SMOKE DETECTORS AND CERTAIN GAS CYLINDERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2021*) (a) For the purposes of this
2 section:

3 (1) "Brand" means a name, symbol, word or mark that attributes a gas
4 cylinder to the producer of such gas cylinder;

5 (2) "Commissioner" means the Commissioner of Energy and
6 Environmental Protection;

7 (3) "Covered entity" means any political subdivision of the state,
8 permitted transfer station, state park or state or private campground
9 that possesses a discarded gas cylinder that was discarded in this state
10 or at a temporary event, including any such event at a public or private
11 school, college or university where thirty or more cylinders are
12 generated;

13 (4) "Department" means the Department of Energy and
14 Environmental Protection;

15 (5) "Discarded gas cylinder" means any gas cylinder that a consumer
16 discarded, intends to discard or abandoned;

17 (6) "Gas cylinder" or "cylinder" means any nonrefillable and refillable
18 cylinder supplied with any type of flammable pressurized gas, helium
19 or carbon dioxide, of any size greater than a water capacity of two
20 pounds and up to and including cylinders with a water capacity of fifty
21 pounds, including, but not limited to, seamless cylinders and tubes,
22 welded cylinders and insulated cylinders intended to contain helium,
23 carbon dioxide or any flammable materials such as propane, acetylene,
24 butane, hydrogen, ethylene and all other flammable compressed gases.
25 "Gas cylinder" does not include any cylinder, tube or container intended
26 to deliver a product that is not a compressed gas;

27 (7) "Gas cylinder stewardship organization" means any nonprofit
28 organization created by producers or created by any trade association
29 that represents producers and that designs, submits and implements the
30 gas cylinder stewardship program;

31 (8) "Gas cylinder stewardship program" or "program" means the
32 state-wide program described in this section and implemented pursuant
33 to the gas cylinder stewardship plan;

34 (9) "Performance goal" means a metric proposed by the gas cylinder
35 stewardship organization to measure, on an annual basis, the
36 performance of the gas cylinder stewardship program, taking into
37 consideration technical and economic feasibilities, in achieving
38 continuous, meaningful improvement in the rate of gas cylinder
39 recycling in the state and any other specified goal of the program;

40 (10) "Producer" means: (A) Any person who manufactures and uses
41 in a commercial enterprise, sells, offers for sale or distributes any
42 cylinder in the state under the brand of the manufacturer; (B) any person
43 who is not the manufacturer of the cylinder but who is the owner or
44 licensee of a trademark under which the cylinder is used in a
45 commercial enterprise, sold, offered for sale or distributed in the state,
46 whether or not the trademark is registered; or (C) any person who

47 imports any cylinder into the state for use in a commercial enterprise or
48 for the commercial sale, offer for sale or distribution in the state;

49 (11) "Recycling" means any process in which discarded cylinders,
50 components and by-products may lose their original identity or form as
51 they are transformed into new, usable or marketable materials.
52 "Recycling" does not include the use of incineration for energy recovery;

53 (12) "Refurbish" means to restore for the purposes of refilling a
54 cylinder;

55 (13) "Retailer" means any person who sells or offers for sale gas
56 cylinders in this state or offers gas cylinders for sale in this state to a
57 consumer; and

58 (14) "Sale" means the transfer of title of a gas cylinder for
59 consideration, including, but not limited to, the use of a sales outlet,
60 catalog, Internet web site or similar electronic means.

61 (b) On or before July 1, 2022, each producer, or such producer's
62 designee, shall join a gas cylinder stewardship organization and such
63 organization shall submit a plan, for the Commissioner of Energy and
64 Environmental Protection's approval, to establish a state-wide gas
65 cylinder stewardship program, as described in this subsection. Retailers
66 may participate in any such gas cylinder stewardship organization.
67 Such gas cylinder stewardship program shall, to the extent it is
68 technologically feasible and economically practical: (1) Minimize public
69 sector involvement in the management of discarded gas cylinders; (2)
70 provide for free, convenient and accessible state-wide opportunities for
71 the receipt of discarded gas cylinders from any person in the state with
72 a discarded gas cylinder that was discarded in the state, including, but
73 not limited to, participating covered entities that accumulate and
74 segregate a minimum of thirty discarded gas cylinders for collection at
75 one time; (3) provide for free collection of discarded gas cylinders from
76 municipal transfer stations that accumulate and segregate fewer than
77 thirty gas cylinders, provided the transfer station requires such
78 collection due to space or permit requirements; (4) provide for gas

79 cylinder stewardship organization-financed end-of-life management for
80 discarded gas cylinders collected pursuant to subdivisions (2) and (3) of
81 this subsection; and (5) provide suitable storage containers at, or make
82 other mutually agreeable storage and transport arrangements for,
83 permitted municipal transfer stations for segregated, discarded gas
84 cylinders, at no cost to such municipality, provided any such municipal
85 transfer station shall make space available for such purpose and shall
86 not impose any fee for placement of such storage container on the
87 municipal transfer station's premises.

88 (c) The plan submitted pursuant to subsection (b) of this section shall:
89 (1) Identify each producer participating in the program; (2) describe the
90 fee structure for the program; (3) establish performance goals for the
91 first two years of the program; (4) identify proposed facilities to be used
92 by the program; (5) detail how the program will promote the recycling
93 of discarded gas cylinders; and (6) include a description of the public
94 education program that will be used to promote consumer knowledge
95 of such program. The fee structure described in subdivision (2) of this
96 subsection shall not include a fee charged to consumers at the point of
97 sale.

98 (d) Each stewardship organization shall establish and implement a
99 fee structure that covers, but does not exceed, the costs of developing
100 the plan described in subsection (c) of this section, operating and
101 administering the program described in subsection (b) of this section
102 and maintaining a financial reserve sufficient to operate the program
103 over a multiyear period of time in a fiscally prudent and responsible
104 manner. Each stewardship organization shall maintain all records
105 relating to the program for a period of not less than three years.

106 (e) Pursuant to the program, recycling shall be required for gas
107 cylinders and residual gases recovered for reuse.

108 (f) The Commissioner of Energy and Environmental Protection shall
109 approve a plan for the establishment of the gas cylinder stewardship
110 program, provided such plan meets the requirements of subsections (b)
111 to (e), inclusive, of this section. Not later than ninety days after

112 submission of the plan pursuant to this section, the commissioner shall
113 make a determination whether to approve the plan. Prior to making
114 such determination, the commissioner shall post the plan on the
115 department's Internet web site and solicit public comments on the plan.
116 Such solicitation shall not be conducted pursuant to chapter 54 of the
117 general statutes. In the event that the commissioner disapproves the
118 plan because it does not meet the requirements of subsections (b) to (e),
119 inclusive, of this section, the commissioner shall describe the reasons for
120 the disapproval in a notice of determination that the commissioner shall
121 provide to the gas cylinder stewardship organization. Such stewardship
122 organization shall revise and resubmit the plan to the commissioner not
123 later than forty-five days after receipt of the commissioner's notice of
124 disapproval. Not later than forty-five days after receipt of the revised
125 plan, the commissioner shall review and approve or disapprove the
126 revised plan, and provide a notice of determination to the gas cylinder
127 stewardship organization. Such stewardship organization may
128 resubmit a revised plan to the commissioner for approval on not more
129 than two occasions. If the gas cylinder stewardship organization fails to
130 submit a plan that is acceptable to the commissioner because it does not
131 meet the requirements of subsections (b) to (e), inclusive, of this section,
132 the commissioner shall modify a submitted plan to make it conform to
133 the requirements of subsections (b) to (e), inclusive, of this section, and
134 approve it. Not later than one hundred twenty days after the approval
135 of a plan pursuant to this section, or one hundred eighty days, in the
136 case of a plan modified by the commissioner, the gas cylinder
137 stewardship organization shall implement the gas cylinder stewardship
138 program.

139 (g) (1) Each gas cylinder stewardship organization shall submit any
140 proposed substantial change to the program to the Commissioner of
141 Energy and Environmental Protection for approval. For the purposes of
142 this subdivision, "substantial change" means: (A) A change in the
143 processing facilities to be used for discarded gas cylinders collected
144 pursuant to the program, or (B) a material change to the system for
145 collecting gas cylinders. If the commissioner does not disapprove a
146 proposed substantial change within ninety days of receipt of notification

147 of such proposed substantial change, such proposed substantial change
148 shall be deemed approved.

149 (2) Not later than July 1, 2025, each gas cylinder stewardship
150 organization shall submit updated performance goals to the
151 commissioner that are based on the experience of the program during
152 the first two years of the program.

153 (h) Each gas cylinder stewardship organization shall notify the
154 Commissioner of Energy and Environmental Protection of other
155 material changes to the program on an ongoing basis, without
156 resubmission of the plan to the commissioner for approval. Such
157 changes shall include, but not be limited to, a change in the composition,
158 officers or contact information of the gas cylinder stewardship
159 organization.

160 (i) Not later than October fifteenth of each year, each gas cylinder
161 stewardship organization shall submit an annual report to the
162 Commissioner of Energy and Environmental Protection, on a form
163 prescribed by the commissioner. The commissioner shall post such
164 annual report on the department's Internet web site. Such report shall
165 include: (1) The tonnage of gas cylinders collected pursuant to the
166 program from: (A) Municipal transfer stations, (B) retailers, and (C) all
167 other covered entities; (2) the weight of gas cylinder materials recycled,
168 as indicated by the weight of each of the commodities sold to secondary
169 markets; (3) the weight of gas cylinders refurbished; (4) a summary of
170 the public education program that supports the program; (5) an
171 evaluation of the effectiveness of methods and processes used to achieve
172 performance goals of the program; and (6) recommendations for any
173 changes to the program.

174 (j) Two years after the implementation of the program and every
175 three years thereafter, or upon the request of the Commissioner of
176 Energy and Environmental Protection but not more frequently than
177 once a year, each gas cylinder stewardship organization shall cause an
178 audit of the program to be conducted by an auditor selected by the
179 commissioner. Such audit shall review the accuracy of the gas

180 stewardship organization's data concerning the program and provide
181 any other information requested by the commissioner, consistent with
182 the requirements of this section, provided such request does not require
183 the disclosure of any proprietary information or trade or business
184 secrets. Such audit shall be paid for by each gas cylinder stewardship
185 organization. Each gas cylinder stewardship organization shall
186 maintain all records relating to the program for not less than three years.

187 (k) Upon implementation of the gas cylinder stewardship program
188 described in this section, any covered entity that participates in such
189 program shall not charge for the receipt of discarded gas cylinders that
190 are discarded in this state, provided any such covered entity may restrict
191 the acceptance of gas cylinders by number, source or condition.

192 (l) Not later than three years after the approval of the gas cylinder
193 stewardship plan pursuant to this section, the Commissioner of Energy
194 and Environmental Protection shall submit a report, in accordance with
195 the provisions of section 11-4a of the general statutes, to the joint
196 standing committee of the General Assembly having cognizance of
197 matters relating to the environment. Such report shall provide an
198 evaluation of the gas cylinder stewardship program and establish a goal
199 for the amount of discarded cylinders managed under the program and
200 a separate goal for the recycling of gas cylinders, taking into
201 consideration technical and economic feasibilities.

202 (m) Each producer and gas cylinder stewardship organization shall
203 be immune from liability for any claim of a violation of antitrust law or
204 unfair trade practice, if such conduct is a violation of antitrust law, to
205 the extent such producer or gas cylinder stewardship organization is
206 exercising authority pursuant to the provisions of this section.

207 (n) The Commissioner of Energy and Environmental Protection may
208 seek civil enforcement of the provisions of this section pursuant to
209 chapter 439 of the general statutes.

210 (o) Whenever, in the judgment of the Commissioner of Energy and
211 Environmental Protection, any person has engaged in or is about to

212 engage in any act, practice or omission that constitutes, or will
213 constitute, a violation of any provision of this section, the Attorney
214 General may, at the request of the commissioner, bring an action in the
215 superior court for the judicial district of New Britain for an order
216 enjoining such act, practice or omission. Such order may require
217 remedial measures and direct compliance with the provisions of this
218 section. Upon a showing by the commissioner that such person has
219 engaged in or is about to engage in any such act, practice or omission,
220 the court may issue a permanent or temporary injunction, restraining
221 order or other order, as appropriate.

222 (p) Any action brought by the Attorney General pursuant to this
223 section shall have precedence in the order of trial, as provided in section
224 52-191 of the general statutes.

225 (q) In the event that another state implements a gas cylinder recycling
226 program, each gas cylinder stewardship organization may collaborate
227 with such state to conserve efforts and resources used in carrying out
228 the gas cylinder stewardship program, provided such collaboration is
229 consistent with the requirements of this section.

230 (r) The Commissioner of Energy and Environmental Protection may
231 assess a reasonable fee to each gas cylinder stewardship organization,
232 not to exceed ten per cent of total program costs, for administration of
233 the gas cylinder stewardship program.

234 (s) Any producer who fails to participate in the gas cylinder
235 stewardship program shall not sell or offer for sale gas cylinders in this
236 state.

237 Sec. 2. (NEW) (*Effective October 1, 2021*) (a) For the purposes of this
238 section:

239 (1) "Brand" means a name, symbol, word or mark that attributes a tire
240 to the producer of such tire;

241 (2) "Commissioner" means the Commissioner of Energy and
242 Environmental Protection;

243 (3) "Covered entity" means any permitted transfer station, tire
244 retailer, car dealership, automotive garage or private or public sector
245 fleet maintenance garage;

246 (4) "Department" means the Department of Energy and
247 Environmental Protection;

248 (5) "Discarded tire" means any tire that a consumer discarded or
249 abandoned, or intends to discard or abandon;

250 (6) "Tire" means a product composed primarily of rubber that is
251 mounted on the wheels of all types of passenger and commercial on-
252 road and off-road motorized vehicles including passenger vehicles,
253 motorcycles, trucks, buses, mobile homes, trailers, noncommercial
254 aircraft, and earthmoving, road building, mining, logging, agricultural,
255 industrial, and other vehicles to provide mobility. "Tire" does not
256 include any tire from any toy, bicycle, commercial aircraft or personal
257 mobility device;

258 (7) "Tire stewardship organization" means the nonprofit organization
259 created by producers or created by any trade association that represents
260 producers who account for a majority of tire production in the United
261 States and that designs, submits and implements the gas tire
262 stewardship program;

263 (8) "Tire stewardship program" or "program" means the state-wide
264 program described in this section and implemented pursuant to the tire
265 stewardship plan;

266 (9) "Performance goal" means a metric proposed by the tire
267 stewardship organization to measure, on an annual basis, the
268 performance of the tire stewardship program, taking into consideration
269 technical and economic feasibilities, in achieving continuous,
270 meaningful improvement in the rate of tire recycling in the state and any
271 other specified goal of such program;

272 (10) "Producer" means any person who manufactures a tire that is
273 sold, offered for sale or distributed in this state under the producer's

274 own name or brand. "Producer" includes (A) the owner of a trademark
275 or brand under which a tire is sold, offered for sale or distributed in this
276 state, and (B) any person who imports a tire into the United States that
277 is sold or offered for sale in this state and that is manufactured by a
278 person who does not have a presence in the United States. "Producer"
279 does not include any manufacturer of tires with less than one-tenth of
280 one per cent of the nationally recognized market share;

281 (11) "Recycling" means any process in which discarded tires,
282 components and by-products may lose their original identity or form as
283 they are transformed into new, usable or marketable materials.
284 "Recycling" does not include the use of incineration for energy recovery;

285 (12) "Retailer" means any person who sells or offers for sale tires in
286 this state or offers tires for sale in this state to a consumer; and

287 (13) "Sale" means the transfer of title of a tire for consideration,
288 including, but not limited to, the use of a sales outlet, catalog, Internet
289 web site or similar electronic means.

290 (b) On or before July 1, 2022, each producer, or such producer's
291 designee, shall join the tire stewardship organization and such
292 organization shall submit a plan, for the Commissioner of Energy and
293 Environmental Protection's approval, to establish a state-wide tire
294 stewardship program, as described in this subsection. Retailers may
295 participate in any such tire stewardship organization. Such tire
296 stewardship program shall, to the extent it is technologically feasible
297 and economically practical: (1) Minimize public sector involvement in
298 the management of discarded tires; (2) provide for free, convenient and
299 accessible state-wide opportunities for the receipt of discarded tires
300 from any person in the state with a discarded tire that was discarded in
301 the state, including, but not limited to, participating covered entities that
302 accumulate and segregate a minimum of six cubic yards of discarded
303 tires at one time; (3) provide for free collection of discarded tires from
304 municipal transfer stations that accumulate and segregate fewer than
305 one hundred tires, provided the transfer station requires such collection
306 due to space or permit requirements; (4) provide for producer-financed

307 end-of-life management for discarded tires collected pursuant to
308 subdivisions (2) and (3) of this subsection; and (5) provide suitable
309 storage containers at, or make other mutually agreeable storage and
310 transport arrangements for, permitted municipal transfer stations for
311 segregated, discarded tires, at no cost to such municipality.

312 (c) The plan submitted pursuant to subsection (b) of this section shall:
313 (1) Identify each producer participating in the program; (2) describe
314 how the program will be financed; (3) establish performance goals for
315 the first two years of the program; (4) identify proposed facilities to be
316 used by the program; (5) detail how the program follows the solid waste
317 hierarchy, as defined in the state-wide solid waste management plan,
318 and will promote the recycling of discarded tires; and (6) include a
319 description of the public education program that will be used to
320 promote consumer knowledge of such program.

321 (d) Each stewardship organization shall establish and implement a
322 system for financing the tire stewardship program that covers, but does
323 not exceed, the costs of developing the plan described in subsection (c)
324 of this section, operating and administering the program described in
325 subsection (b) of this section and maintaining a financial reserve for six
326 months sufficient to operate the program. Each stewardship
327 organization shall maintain all records relating to the program for a
328 period of not less than three years. Funding of such program may be
329 through a fee structure.

330 (e) The Commissioner of Energy and Environmental Protection shall
331 approve a plan for the establishment of the tire stewardship program,
332 provided such plan meets the requirements of subsections (b) to (e),
333 inclusive, of this section. Prior to making such determination, the
334 commissioner shall post the plan on the department's Internet web site
335 and solicit public comments on the plan. Such solicitation shall not be
336 conducted pursuant to chapter 54 of the general statutes. Not later than
337 ninety days after submission of the plan pursuant to this section, the
338 commissioner shall make a determination whether to approve the plan.
339 In the event that the commissioner disapproves the plan because it does

340 not meet the requirements of subsections (b) to (e), inclusive, of this
341 section, the commissioner shall describe the reasons for the disapproval
342 in a notice of determination that the commissioner shall provide to the
343 tire stewardship organization. Such stewardship organization shall
344 revise and resubmit the plan to the commissioner not later than forty-
345 five days after receipt of the commissioner's notice of disapproval. Not
346 later than forty-five days after receipt of the revised plan, the
347 commissioner shall review and approve or disapprove the revised plan,
348 and provide a notice of determination to the gas cylinder stewardship
349 organization. Such stewardship organization may resubmit a revised
350 plan to the commissioner for approval on not more than two occasions.
351 If the tire stewardship organization fails to submit a plan that is
352 acceptable to the commissioner because it does not meet the
353 requirements of subsections (b) to (e), inclusive, of this section, the
354 commissioner shall modify a submitted plan to make it conform to the
355 requirements of subsections (b) to (e), inclusive, of this section, and
356 approve it. Not later than one hundred twenty days after the approval
357 of a plan pursuant to this section, or one hundred eighty days, in the
358 case of a plan modified by the commissioner, the tire stewardship
359 organization shall implement the tire stewardship program.

360 (f) (1) The tire stewardship organization shall submit any proposed
361 substantial change to the program to the Commissioner of Energy and
362 Environmental Protection for approval. For the purposes of this
363 subdivision, "substantial change" means: (A) A change in the processing
364 facilities to be used for discarded tires collected pursuant to the
365 program, or (B) a material change to the system for collecting tires.

366 (2) Not later than July 1, 2025, the tire stewardship organization shall
367 submit updated performance goals to the commissioner that are based
368 on the experience of the program during the first two years of the
369 program.

370 (g) Each tire stewardship organization shall notify the Commissioner
371 of Energy and Environmental Protection of other material changes to
372 the program on an ongoing basis, without resubmission of the plan to

373 the commissioner for approval. Such changes shall include, but not be
374 limited to, a change in the composition, officers or contact information
375 of the tire stewardship organization.

376 (h) Not later than October fifteenth of each year, each tire stewardship
377 organization shall submit an annual report to the Commissioner of
378 Energy and Environmental Protection, on a form prescribed by the
379 commissioner. The commissioner shall post such annual report on the
380 department's Internet web site. Such report shall include: (1) The
381 tonnage of tires collected pursuant to the program from: (A) Municipal
382 transfer stations, (B) retailers, and (C) all other covered entities; (2) the
383 tonnage of tires diverted for recycling; (3) a summary of the public
384 education program that supports the program; (4) an evaluation of the
385 effectiveness of methods and processes used to achieve performance
386 goals of the program; and (5) recommendations for any changes to the
387 program.

388 (i) Two years after the implementation of the program and every
389 three years thereafter, or upon the request of the Commissioner of
390 Energy and Environmental Protection but not more frequently than
391 once a year, each tire stewardship organization shall cause an audit of
392 the program to be conducted by an auditor selected by the
393 commissioner. Such audit shall review the accuracy of the tire
394 stewardship organization's data concerning the program and provide
395 any other information requested by the commissioner, consistent with
396 the requirements of this section, provided such request does not require
397 the disclosure of any proprietary information or trade or business
398 secrets. Such audit shall be paid for by each tire stewardship
399 organization. Each tire stewardship organization shall maintain all
400 records relating to the program for not less than three years.

401 (j) Upon implementation of the tire stewardship program described
402 in this section, any covered entity that participates in such program shall
403 not charge for the receipt of discarded tires that are discarded in this
404 state, provided any such covered entity may restrict the acceptance of
405 tires by number, source or condition.

406 (k) Not later than three years after the approval of the tire
407 stewardship plan pursuant to this section, the Commissioner of Energy
408 and Environmental Protection shall submit a report, in accordance with
409 the provisions of section 11-4a of the general statutes, to the joint
410 standing committee of the General Assembly having cognizance of
411 matters relating to the environment. Such report shall provide an
412 evaluation of the tire stewardship program and establish a goal for the
413 amount of discarded tires managed under the program and a separate
414 goal for the diversion of tires for recycling, taking into consideration
415 technical and economic feasibilities.

416 (l) Each producer and the tire stewardship organization shall be
417 immune from liability for any claim of a violation of antitrust law or
418 unfair trade practice, if such conduct is a violation of antitrust law, to
419 the extent such producer or tire stewardship organization is exercising
420 authority pursuant to the provisions of this section.

421 (m) The Commissioner of Energy and Environmental Protection may
422 seek civil enforcement of the provisions of this section pursuant to
423 chapter 439 of the general statutes.

424 (n) Whenever, in the judgment of the Commissioner of Energy and
425 Environmental Protection, any person has engaged in or is about to
426 engage in any act, practice or omission that constitutes, or will
427 constitute, a violation of any provision of this section, the Attorney
428 General may, at the request of the commissioner, bring an action in the
429 superior court for the judicial district of New Britain for an order
430 enjoining such act, practice or omission. Such order may require
431 remedial measures and direct compliance with the provisions of this
432 section. Upon a showing by the commissioner that such person has
433 engaged in or is about to engage in any such act, practice or omission,
434 the court may issue a permanent or temporary injunction, restraining
435 order or other order, as appropriate.

436 (o) Any action brought by the Attorney General pursuant to this
437 section shall have precedence in the order of trial, as provided in section
438 52-191 of the general statutes.

439 (p) In the event that another state implements a tire stewardship or
440 recycling program, the tire stewardship organization may collaborate
441 with such state to conserve efforts and resources used in carrying out
442 the tire stewardship program, provided such collaboration is consistent
443 with the requirements of this section.

444 (q) The Commissioner of Energy and Environmental Protection may
445 assess a reasonable fee to the tire stewardship organization, not to
446 exceed ten per cent of total program costs, for administration of the tire
447 stewardship program.

448 (r) Any producer who fails to participate in the tire stewardship
449 program shall not sell or offer for sale tires in this state.

450 Sec. 3. (NEW) (*Effective October 1, 2021*) (a) For the purposes of this
451 section:

452 (1) "Brand" means a name, symbol, word or mark that attributes a
453 smoke detector to the producer of such smoke detector;

454 (2) "Commissioner" means the Commissioner of Energy and
455 Environmental Protection;

456 (3) "Covered entity" means any political subdivision of the state,
457 permitted transfer station, or permitted household hazardous waste
458 facility that possesses a discarded smoke detector that was discarded in
459 this state;

460 (4) "Department" means the Department of Energy and
461 Environmental Protection;

462 (5) "Discarded smoke detector" means any smoke detector that a
463 consumer discarded, intends to discard or abandoned;

464 (6) "Smoke detector" means any battery operated or plug-in smoke
465 detector intended for use in a residential dwelling, any carbon
466 monoxide detector intended for use in a residential dwelling and any
467 smoke detector and carbon monoxide detector combination intended

468 for use in a residential dwelling with or without an alarm notification;

469 (7) "Smoke detector stewardship organization" means the nonprofit
470 organization created by producers or created by any trade association
471 that represents producers who account for a majority of smoke detector
472 production in the United States and that designs, submits and
473 implements the smoke detector stewardship program;

474 (8) "Smoke detector stewardship program" or "program" means the
475 state-wide program described in this section and implemented pursuant
476 to the smoke detector stewardship plan;

477 (9) "Performance goal" means a metric proposed by the smoke
478 detector stewardship organization to measure, on an annual basis, the
479 performance of the smoke detector stewardship program, taking into
480 consideration technical and economic feasibilities, in achieving
481 continuous, meaningful improvement in the rate of smoke detector
482 recycling in the state and any other specified goal of the program;

483 (10) "Producer" means any person who manufactures a smoke
484 detector that is sold, offered for sale or distributed in the state under the
485 producer's own name or brand. "Producer" includes (A) the owner of a
486 trademark or brand under which a smoke detector is sold, offered for
487 sale or distributed in this state, whether or not such trademark or brand
488 is registered in this state, and (B) any person who imports a smoke
489 detector into the United States that is sold or offered for sale in this state
490 and that is manufactured or renovated by a person who does not have
491 a presence in the United States;

492 (11) "Recycling" means any process in which discarded smoke
493 detectors, components and by-products may lose their original identity
494 or form as they are transformed into new, usable or marketable
495 materials. "Recycling" does not include the use of incineration for energy
496 recovery;

497 (12) "Retailer" means any person who sells or offers for sale smoke
498 detectors in this state or offers smoke detectors for sale in this state to a

499 consumer; and

500 (13) "Sale" means the transfer of title of a smoke detector for
501 consideration, including, but not limited to, the use of a sales outlet,
502 catalog, Internet web site or similar electronic means.

503 (b) On or before July 1, 2022, each producer, or such producer's
504 designee, shall join the smoke detector stewardship organization and
505 such organization shall submit a plan, for the Commissioner of Energy
506 and Environmental Protection's approval, to establish a state-wide
507 smoke detector stewardship program, as described in this subsection.
508 Retailers may participate in any such smoke detector stewardship
509 organization. Such smoke detector stewardship program shall, to the
510 extent it is technologically feasible and economically practical: (1)
511 Minimize public sector involvement in the management of discarded
512 smoke detectors; (2) provide for free, convenient and accessible state-
513 wide opportunities for the receipt of discarded smoke detectors from
514 any person in the state with a discarded smoke detector that was
515 discarded in the state, including, but not limited to, participating
516 covered entities that accumulate and segregate a minimum of fifty
517 discarded smoke detectors for collection at one time and municipal
518 transfer stations that discard a minimum of thirty smoke detectors at
519 one time; (3) provide for free collection of discarded smoke detectors
520 from municipal transfer stations that accumulate and segregate fewer
521 than thirty smoke detectors, provided the transfer station requires such
522 collection due to space or permit requirements; (4) provide for smoke
523 detector stewardship organization-financed end-of-life management for
524 discarded smoke detectors collected pursuant to subdivisions (2) and (3)
525 of this subsection; and (5) provide suitable storage containers at, or
526 make other mutually agreeable storage and transport arrangements for,
527 permitted municipal transfer stations for segregated, discarded smoke
528 detectors, at no cost to such municipality, provided any such municipal
529 transfer station shall make space available for such purpose and shall
530 not impose any fee for placement of such storage container on the
531 municipal transfer station's premises.

532 (c) The plan submitted pursuant to subsection (b) of this section shall:
533 (1) Identify each producer participating in the program; (2) describe the
534 fee structure for the program; (3) establish performance goals for the
535 first two years of the program; (4) identify proposed facilities to be used
536 by the program; (5) detail how the program will promote the recycling
537 of discarded smoke detectors; and (6) include a description of the public
538 education program that will be used to promote consumer knowledge
539 of such program. The fee structure described in subdivision (2) of this
540 subsection shall not include a fee charged to consumers at the point of
541 sale.

542 (d) The smoke detector stewardship organization shall establish and
543 implement a fee structure that covers, but does not exceed, the costs of
544 developing the plan described in subsection (c) of this section, operating
545 and administering the program described in subsection (b) of this
546 section and maintaining a financial reserve sufficient to operate the
547 program over a multiyear period of time in a fiscally prudent and
548 responsible manner. The smoke detector stewardship organization shall
549 maintain all records relating to the program for a period of not less than
550 three years.

551 (e) Pursuant to the program, recycling shall be preferred over any
552 other disposal method for smoke detectors, to the extent that recycling
553 is technologically feasible and economically practical.

554 (f) The Commissioner of Energy and Environmental Protection shall
555 approve a plan for the establishment of the smoke detector stewardship
556 program, provided such plan meets the requirements of subsections (b)
557 to (e), inclusive, of this section. Not later than ninety days after
558 submission of the plan pursuant to this section, the commissioner shall
559 make a determination whether to approve the plan. Prior to making
560 such determination, the commissioner shall post the plan on the
561 department's Internet web site and solicit public comments on the plan.
562 Such solicitation shall not be conducted pursuant to chapter 54 of the
563 general statutes. In the event that the commissioner disapproves the
564 plan because it does not meet the requirements of subsections (b) to (e),

565 inclusive, of this section, the commissioner shall describe the reasons for
566 the disapproval in a notice of determination that the commissioner shall
567 provide to the smoke detector stewardship organization. Such
568 stewardship organization shall revise and resubmit the plan to the
569 commissioner not later than forty-five days after receipt of the
570 commissioner's notice of disapproval. Not later than forty-five days
571 after receipt of the revised plan, the commissioner shall review and
572 approve or disapprove the revised plan, and provide a notice of
573 determination to the smoke detector stewardship organization. Such
574 stewardship organization may resubmit a revised plan to the
575 commissioner for approval on not more than two occasions. If the smoke
576 detector stewardship organization fails to submit a plan that is
577 acceptable to the commissioner because it does not meet the
578 requirements of subsections (b) to (e), inclusive, of this section, the
579 commissioner shall modify a submitted plan to make it conform to the
580 requirements of subsections (b) to (e), inclusive, of this section, and
581 approve it. Not later than one hundred twenty days after the approval
582 of a plan pursuant to this section, or one hundred eighty days, in the
583 case of a plan modified by the commissioner, the smoke detector
584 stewardship organization shall implement the smoke detector
585 stewardship program.

586 (g) (1) The smoke detector stewardship organization shall submit any
587 proposed substantial change to the program to the Commissioner of
588 Energy and Environmental Protection for approval. For the purposes of
589 this subdivision, "substantial change" means: (A) A change in the
590 processing facilities to be used for discarded smoke detectors collected
591 pursuant to the program, or (B) a material change to the system for
592 collecting smoke detectors. If the commissioner does not disapprove a
593 proposed substantial change within ninety days of receipt of notification
594 of such proposed substantial change, such proposed substantial change
595 shall be deemed approved.

596 (2) Not later than July 1, 2025, the smoke detector stewardship
597 organization shall submit updated performance goals to the
598 commissioner that are based on the experience of the program during

599 the first two years of the program.

600 (h) The smoke detector stewardship organization shall notify the
601 Commissioner of Energy and Environmental Protection of other
602 material changes to the program on an ongoing basis, without
603 resubmission of the plan to the commissioner for approval. Such
604 changes shall include, but not be limited to, a change in the composition,
605 officers or contact information of the smoke detector stewardship
606 organization.

607 (i) Not later than October fifteenth of each year, the smoke detector
608 stewardship organization shall submit an annual report to the
609 Commissioner of Energy and Environmental Protection, on a form
610 prescribed by the commissioner. The commissioner shall post such
611 annual report on the department's Internet web site. Such report shall
612 include: (1) The weight of smoke detectors collected pursuant to the
613 program from: (A) Municipal transfer stations, (B) retailers, and (C) all
614 other covered entities; (2) the weight of smoke detectors diverted for
615 recycling; (3) the weight of smoke detector materials recycled, as
616 indicated by the weight of each of the commodities sold to secondary
617 markets; (4) a summary of the public education program that supports
618 the program; (5) an evaluation of the effectiveness of methods and
619 processes used to achieve performance goals of the program; and (6)
620 recommendations for any changes to the program.

621 (j) Two years after the implementation of the program and every
622 three years thereafter, or upon the request of the Commissioner of
623 Energy and Environmental Protection but not more frequently than
624 once a year, the smoke detector stewardship organization shall cause an
625 audit of the program to be conducted by an auditor selected by the
626 commissioner. Such audit shall review the accuracy of the smoke
627 detector organization's data concerning the program and provide any
628 other information requested by the commissioner, consistent with the
629 requirements of this section, provided such request does not require the
630 disclosure of any proprietary information or trade or business secrets.
631 Such audit shall be paid for by the smoke detector stewardship

632 organization. The smoke detector organization shall maintain all
633 records relating to the program for not less than three years.

634 (k) Upon implementation of the smoke detector stewardship
635 program described in this section, any covered entity that participates
636 in such program shall not charge for the receipt of discarded smoke
637 detectors that are discarded in this state provided any such covered
638 entity may restrict the acceptance of smoke detectors by number, source
639 or condition.

640 (l) Not later than three years after the approval of the smoke detector
641 stewardship plan pursuant to this section, the Commissioner of Energy
642 and Environmental Protection shall submit a report, in accordance with
643 the provisions of section 11-4a of the general statutes, to the joint
644 standing committee of the General Assembly having cognizance of
645 matters relating to the environment. Such report shall provide an
646 evaluation of the smoke detector stewardship program and establish a
647 goal for the amount of discarded smoke detectors managed under the
648 program and a separate goal for the recycling of smoke detectors, taking
649 into consideration technical and economic feasibilities.

650 (m) Each producer and the smoke detector stewardship organization
651 shall be immune from liability for any claim of a violation of antitrust
652 law or unfair trade practice, if such conduct is a violation of antitrust
653 law, to the extent such producer or smoke detector stewardship
654 organization is exercising authority pursuant to the provisions of this
655 section.

656 (n) The Commissioner of Energy and Environmental Protection may
657 seek civil enforcement of the provisions of this section pursuant to
658 chapter 439 of the general statutes.

659 (o) Whenever, in the judgment of the Commissioner of Energy and
660 Environmental Protection, any person has engaged in or is about to
661 engage in any act, practice or omission that constitutes, or will
662 constitute, a violation of any provision of this section, the Attorney
663 General may, at the request of the commissioner, bring an action in the

664 superior court for the judicial district of New Britain for an order
 665 enjoining such act, practice or omission. Such order may require
 666 remedial measures and direct compliance with the provisions of this
 667 section. Upon a showing by the commissioner that such person has
 668 engaged in or is about to engage in any such act, practice or omission,
 669 the court may issue a permanent or temporary injunction, restraining
 670 order or other order, as appropriate.

671 (p) Any action brought by the Attorney General pursuant to this
 672 section shall have precedence in the order of trial, as provided in section
 673 52-191 of the general statutes.

674 (q) In the event that another state implements a smoke detector
 675 recycling program, the smoke detector stewardship organization may
 676 collaborate with such state to conserve efforts and resources used in
 677 carrying out the smoke detector stewardship program, provided such
 678 collaboration is consistent with the requirements of this section.

679 (r) The Commissioner of Energy and Environmental Protection may
 680 assess a reasonable fee to the smoke detector stewardship organization,
 681 not to exceed ten per cent of total program costs, for administration of
 682 the smoke detector stewardship program.

683 (s) Any producer who fails to participate in the smoke detector
 684 stewardship program shall not sell or offer for sale smoke detectors in
 685 this state.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2021	New section
Sec. 2	October 1, 2021	New section
Sec. 3	October 1, 2021	New section

ENV Joint Favorable Subst.

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 22 \$	FY 23 \$
Department of Energy and Environmental Protection	GF - Potential Savings	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill establishes three extended producer responsibility (EPR) programs to manage three products: (1) gas cylinders, (2) tires, and (3) smoke detectors. It requires manufacturers to join a nonprofit organization established by themselves or their trade association.

It is that estimated that there would be approximately 20-25 members of each of the three products in the newly established stewardship organizations.

Under the bill, an organization must develop a plan by July 1, 2022, to minimize public sector involvement in managing these products, and submit their plans to the Department of Energy and Environmental Protection (DEEP) for approval. The fee structure for the third-party non-profit must cover but not exceed program costs, including a reserve. The third-party fee structure and administration have no fiscal impact to the state or municipalities.

Additionally, the bill allows DEEP to enforce the EPR program. This also has no fiscal impact to the state or municipalities as DEEP would not collect enforcement penalties under the privately administered EPR program.

An EPR program for (propane) gas cylinders, newly established under the bill, may result in a savings to municipalities and the state, including DEEP (since many propane canisters are left at state campgrounds) associated with reduced cleanup costs, as illegal dumping of tires currently occurs on state and municipal property. The bill may also result in a savings to municipalities to the extent less tires are shipped out-of-state as municipal solid waste (MSW) as can be current practice.

The extent of municipal savings depends on the volume of these products currently being disposed of in the MSW stream and the current tip fee for each municipality.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 6386*****AN ACT CONCERNING EXTENDED PRODUCER RESPONSIBILITY FOR TIRES, SMOKE DETECTORS AND CERTAIN GAS CYLINDERS.*****SUMMARY**

This bill establishes three separate, statewide stewardship programs to manage the following discarded products: gas cylinders (§ 1), tires (§ 2), and smoke detectors (§ 3). It requires producers of these products, or their designees, to join a respective nonprofit organization that they, or a trade association representing them, establishes.

The bill prohibits producers who fail to participate in the programs from selling their products in Connecticut. A sale can be through a retailer, sales outlet, catalog, website, or similar electronic means.

Under the bill, an organization must develop a plan by July 1, 2022, to, among other things, minimize public sector involvement in managing the applicable discarded products. The organization must submit the plan to the Department of Energy and Environmental Protection (DEEP) for approval. An organization's fee structure or financing system, as applicable, must cover but not exceed program costs, including maintaining a reserve.

The bill (1) allows the DEEP commissioner to civilly enforce the programs' requirements, (2) establishes reporting requirements, and (3) provides immunity to producers and organizations from claims of antitrust or unfair trade practice violations under certain circumstances. It also allows an organization to collaborate with another state with an applicable recycling program.

EFFECTIVE DATE: October 1, 2021

PRODUCTS AND PRODUCERS

The bill generally applies to “producers” of these three products, which vary by product type.

Under the bill, a “producer” of a gas cylinder is someone who (1) manufactures and uses in a commercial enterprise, sells, offers for sale, or distributes a cylinder in Connecticut under its brand; (2) owns or is a licensee of a trademark under which the cylinder is used in those activities, regardless of the trademark’s registration status in the state; or (3) imports a cylinder into Connecticut for use in a commercial enterprise or for commercial sale, offer for sale, or distribution.

In the case of tires, the bill defines a “producer” as someone who manufactures a tire that is sold, offered for sale, or distributed in Connecticut under its name or brand. It includes someone who (1) owns a trademark or brand under which a tire is sold, offered for sale, or distributed in the state or (2) imports a tire manufactured by someone without a presence in the United States that is then sold or offered for sale in Connecticut. The bill excludes from its requirements tire manufacturers with a nationally recognized market share of less than 0.1%.

Similarly, a smoke detector “producer” under the bill is someone who manufactures a smoke detector that is sold, offered for sale, or distributed in Connecticut under its name or brand. It includes someone who (1) owns a trademark or brand under which a detector is sold, offered for sale, or distributed in the state, regardless of the trademark’s or brand’s registration status in the state, or (2) imports a detector manufactured or renovated by someone without a presence in the United States that is then sold or offered for sale in Connecticut.

The bill defines a “brand” as a name, symbol, word, or mark that attributes a product to its producer.

Gas Cylinders

Under the bill, a “gas cylinder” is a nonrefillable or refillable cylinder with flammable pressurized gas, helium, or carbon dioxide, with between 2- and 50-pounds water capacity. It includes seamless cylinders

and tubes, welded cylinders, and insulated cylinders intended to contain helium, carbon dioxide, or any flammable materials such as propane, acetylene, butane, hydrogen, ethylene, and other compressed gases. It does not include a cylinder, tube, or container intended to deliver a noncompressed gas product.

Tires

Tires covered by the bill include products made primarily of rubber that are mounted on wheels of passenger and commercial motorized vehicles, whether on- or off-road, including passenger vehicles; motorcycles; trucks; buses; mobile homes; trailers; noncommercial aircraft; and earthmoving, road building, mining, logging, agricultural, industrial, and other vehicles providing mobility. The bill excludes tires for toys, bicycles, commercial aircrafts, or personal mobility devices.

Smoke Detectors

For the smoke detector program, the bill applies to battery operated or plug-in smoke detectors, carbon monoxide detectors, and combination products intended for use in residential dwellings.

PROGRAMS' PURPOSES AND ESTABLISHMENT

By July 1, 2022, the bill requires producers, or their designees, to join a representative stewardship organization. These stewardship organizations are nonprofits created by producers, or a trade association representing them, that design, submit, and implement the stewardship programs. For tires and smoke detectors, if a trade association creates the program, it must be one that accounts for a majority of tire or detector production in the United States. For tires and smoke detectors, there may only be one representative organization involved in creating a program. In the case of gas cylinders, the bill allows there to be multiple organizations involved. Under the bill, retailers may participate in the respective stewardship organizations.

By the same date, the organizations must submit their respective plans to establish a statewide stewardship program to the DEEP commissioner for approval.

The bill requires an organization's fee structure, or in the case of the tire stewardship organization either its fee structure or financing system, to cover but not exceed the costs of (1) developing the plan; (2) operating and administering the program; and (3) maintaining a sufficient financial reserve. The financial reserve for a gas cylinder program or the smoke detector program must be enough to operate the program in a fiscally prudent way over a multiyear period. The reserve for the tire program must be enough for six months' operation.

Under the bill, a program must minimize public sector involvement in managing the respective discarded product. It must also provide the following:

1. free, convenient, and accessible statewide opportunities to receive the discarded products from anyone with one that was discarded in Connecticut, including (a) participating covered entities (see below) that accumulate and segregate at least 30 gas cylinders, six cubic yards of tires, or 50 smoke detectors, as applicable, and (b) municipal transfer stations that discard at least 30 smoke detectors at a time;
2. free collection of the discarded products from municipal transfer stations that accumulate and segregate less than 30 cylinders, 100 tires, or 30 smoke detectors, as applicable, and need collection due to space or permit requirements;
3. organization-financed, or producer-financed in the case of tires, end-of-life-management for the collected products; and
4. suitable storage containers, or some other mutually agreed-to storage and transport arrangement, at permitted municipal transfer stations at no cost to the municipality; however, for cylinders or smoke detectors only if the transfer stations make space available and charge no fee for the containers' placement.

A program must do these things to the extent they are technologically feasible and economically practical. Similarly, to the extent it is

technologically feasible and economically practical, the bill requires recycling to be the preferred disposal method for smoke detectors. It also requires recycling gas cylinders and recovering their residual gases for reuse.

Under the bill, a product is “discarded” if a consumer generally discards or abandons it or intends to discard it.

PLAN COMPONENTS

Under the bill, an organization’s plan must do the following:

1. identify each participating producer;
2. describe (a) its program’s fee structure for gas cylinders and smoke detectors, which cannot include a consumer fee charged at the point of sale, or (b) how the program will be financed, in the case of tires;
3. establish performance goals for the program’s first two years;
4. identify proposed program facilities;
5. detail how the program will promote recycling the discarded products and how, for the tire program, it follows the state’s solid waste hierarchy (see BACKGROUND); and
6. describe its public education program.

A “performance goal” is an organization-proposed metric to annually measure a program’s performance. It must consider technical and economic feasibility of achieving continuous and meaningful improvement in (1) the state’s recycling rate for the involved product (i.e., gas cylinders, tires, or smoke detectors) and (2) any other specified goal.

PLAN APPROVAL AND IMPLEMENTATION

The bill requires the DEEP commissioner to approve a plan if it meets the bill’s program and plan requirements. She must determine whether

to approve a plan within 90 days after its submission. The commissioner must post a plan on DEEP's website and solicit public comments before deciding whether to approve it. The bill specifies that the solicitation is not conducted according to the Uniform Administrative Procedure Act.

If a plan is not approved, the commissioner must provide the organization with a notice of determination describing the reasons for disapproval. The organization must revise and resubmit its plan within 45 days after receiving the disapproval notice. The commissioner must review and either approve or disapprove a revised plan within 45 days after receiving it and provide a notice of determination to the organization. The bill restricts resubmitting a revised plan for approval to no more than two occasions. It requires the commissioner to modify and approve a submitted plan to make it conform with the program and plan requirements if the organization fails to provide an acceptable plan.

The bill requires an organization to implement its stewardship program within (1) 120 days after plan approval or (2) 180 days after a DEEP-modified plan is approved.

CHANGES TO A PLAN

The bill requires an organization to submit substantial proposed plan changes to the DEEP commissioner for approval. Under the bill, a "substantial change" is a (1) change in the processing facilities used for the collected products or (2) material change to the system collecting them. A proposed substantial change by a cylinder or the smoke detector organization is deemed approved unless the commissioner disapproves it within 90 days after receiving notice of the change. The bill provides no deadline by which the commissioner must approve a substantial change by the tire organization.

The bill also requires an organization to notify the commissioner of other material program changes on an ongoing basis and without resubmitting the plan for approval. These changes include such things as changing the organization's composition, officers, or contact information.

By July 1, 2025, an organization must submit updated performance goals to the commissioner, which must be based on the program's experience during its first two years.

COLLECTION FEES

When the programs are implemented, the bill prohibits participating "covered entities" from charging to receive gas cylinders, tires, or smoke detectors, as applicable, that were discarded in Connecticut; however, it allows them to limit their acceptance based on number, source, or condition.

Under the bill, a "covered entity" for the programs' products are as follows:

1. For a gas cylinder program, it is (a) a political subdivision of the state, permitted transfer station, state park, or campground that has a gas cylinder discarded in Connecticut or (b) a temporary event such as one at a school, college, or university that generated at least 30 cylinders.
2. For the tire program, it is a permitted transfer station, tire retailer, car dealership, automotive garage, or fleet maintenance garage.
3. For the smoke detector program, it is a political subdivision of the state, permitted transfer station, or permitted household hazardous waste facility that has a smoke detector discarded in Connecticut.

REPORTING REQUIREMENTS

Annually by October 15, the bill requires a stewardship organization for any of the three programs to submit a report to the commissioner on a form she prescribes. The report must then be posted on DEEP's website. Under the bill, the report must include the following information, as applicable:

1. tonnage of gas cylinders or tires, or weight of smoke detectors, collected from municipal transfer stations, retailers, and other

- covered entities;
2. weight of gas cylinder or smoke detector materials recycled by the weight of each commodity sold to secondary markets;
 3. weight of gas cylinders restored for refilling (i.e., refurbished); and
 4. tonnage of tires or weight of smoke detectors diverted for recycling.

The report must also include (1) a summary of the program's public education efforts, (2) an evaluation of the effectiveness of methods and processes used to achieve program performance goals, and (3) recommendations for any program changes.

Within three years after a plan's approval, the commissioner must submit a report to the Environment Committee that evaluates the program. The report must also establish goals for (1) the amount of discarded gas cylinders or smoke detectors managed by the program and (2) recycling the cylinders or detectors, or diverting the tires for recycling, considering technical and economic feasibility.

INTERSTATE COLLABORATION

The bill allows a stewardship organization to collaborate with another state that has a similar product recycling program, or a stewardship program in the case of tires, to conserve efforts and resources; however, the collaboration must be consistent with the bill's requirements.

UNIFORM PROVISIONS

The following provisions apply uniformly to each product stewardship program.

Administrative Fee

The bill authorizes the DEEP commissioner to assess a reasonable fee, of up to 10% of the total program costs, to a stewardship organization for program administration purposes.

Civil Penalties

The bill authorizes the DEEP commissioner to enforce the program's requirements under her existing authority.

It allows the commissioner to ask the attorney general to bring an action for injunctive relief in New Britain Superior Court if she believes that a person has engaged in, or is about to engage in, any act, practice, or omission that violates the program's requirements. It permits the court to issue a permanent or temporary injunction, restraining order, or other appropriate order, including taking remedial measures and directing compliance. The bill requires that these actions by the attorney general take precedence over other actions in the order of trial.

Program Audit

Two years after program implementation, and then every three years, an organization must pay for a program audit that involves an auditor selected by the DEEP commissioner. The audit must (1) review the accuracy of the organization's program data and (2) provide any other program-related information the commissioner requests, but not any proprietary information or trade or business secrets. The bill also allows the commissioner to request an audit no more than once per year.

The bill requires an organization to maintain all program records for at least three years.

Audited Financial Statements

Existing law requires any product stewardship organization operating in the state to, annually by May 1, submit to DEEP certified audited financial statements and the name of any contractor or organization that has a contract with it valued at \$2,000 or more. DEEP must post and maintain the information on its website (CGS § 22a-905g). This requirement applies to the three new stewardship organizations.

Liability Protection

Under the bill, to the extent a producer or an organization is exercising authority according to the bill's provisions, it is immune from

liability for any antitrust or unfair trade practice claim based on a violation of antitrust law.

BACKGROUND

Solid Waste Hierarchy

Connecticut’s Comprehensive Materials Management Strategy (i.e., the revised statewide Solid Waste Management Plan) has a hierarchy as a guide for solid waste management efforts. The hierarchy emphasizes source reduction, recycling, composting, and energy recovery. It lists landfilling and incineration as last resorts for solid waste disposal.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 30 Nay 2 (03/29/2021)