



# House of Representatives

**File No. 510**

General Assembly

*February Session, 2022*      **(Reprint of File No. 58)**

Substitute House Bill No. 5142  
As Amended by House Amendment  
Schedule "A"

Approved by the Legislative Commissioner  
April 18, 2022

***AN ACT CONCERNING EXTENDED PRODUCER RESPONSIBILITY  
FOR CERTAIN GAS CYLINDERS.***

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

1        Section 1. (NEW) (*Effective July 1, 2022*) (a) For the purposes of this  
2 section:

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

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

7        (3) "Eligible entity" means any political subdivision of the state,  
8 transfer station, material recovery facility, drop off or event, disposal  
9 facility, state park or private campground, or other approved entity in  
10 the state that is part of an approved gas cylinder stewardship plan;

11        (4) "Department" means the Department of Energy and

12 Environmental Protection;

13 (5) "Discarded gas cylinder" means any gas cylinder supplied to a  
14 consumer in the state for personal, family or household use that is  
15 discarded at an eligible entity;

16 (6) "Gas cylinder" or "cylinder" means any nonrefillable or refillable  
17 cylinder supplied to a consumer for personal, family or household use  
18 with flammable pressurized gas, helium or carbon dioxide, of any size  
19 greater than a water capacity of one-half pounds but not exceeding any  
20 cylinder with a water capacity of fifty pounds, including, but not limited  
21 to, seamless cylinders and tubes, welded cylinders and insulated  
22 cylinders intended to contain helium, carbon dioxide or flammable  
23 materials such as propane, butane or other flammable compressed  
24 gases. "Gas cylinder" does not include any cylinder, tube or container  
25 intended to deliver a product that is not a compressed gas, any medical  
26 or industrial-grade cylinder or any cylinder that is used by any medical  
27 facility or commercial enterprise or that contains oxygen, refrigerants,  
28 acetylene, hydrogen, ethylene or foam adhesives;

29 (7) "Gas cylinder stewardship organization" means any organization  
30 that is established by and represents producers of gas cylinders and that  
31 designs, submits and implements a gas cylinder stewardship plan on  
32 behalf of the producers it represents;

33 (8) "Gas cylinder stewardship program" or "program" means the  
34 program implemented pursuant to an approved gas cylinder  
35 stewardship plan;

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

42 (10) "Producer" means: (A) Any person who supplies a gas cylinder

43 in the state under the brand of the manufacturer; (B) if there is no person  
44 described in subparagraph (A) of this subdivision, any person who is  
45 not the manufacturer of the cylinder but who is the owner or licensee of  
46 a trademark under which the cylinder is supplied in the state, whether  
47 or not the trademark is registered; (C) if there is no person described in  
48 subparagraph (B) of this subdivision, any person who imports any  
49 cylinder into the state for supply to a consumer; (D) if there is no person  
50 described in subparagraph (C) of this subdivision, the retailer who  
51 supplies the cylinder to a consumer; or (E) if there is no person described  
52 in subparagraph (D) of this subdivision, any person who facilitates the  
53 supply of a cylinder by: (i) Owning or operating an online marketplace  
54 or forum in which the cylinder is listed or advertised for sale, (ii)  
55 transmitting or otherwise communicating the offer to sell a cylinder, or  
56 (iii) providing for the physical distribution of a cylinder to the  
57 consumer, such as by the storage, preparation or shipping of products;

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

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

64 (13) "Retailer" means any person who supplies, sells or offers for sale  
65 gas cylinders in this state to a consumer for personal, family or  
66 household use; and

67 (14) "Supply" means to sell, lease or donate, with the transfer of  
68 possession or title, or to otherwise make available or distribute,  
69 including, but not limited to, through the use of a sales outlet, catalog,  
70 Internet web site or similar electronic means, to a consumer in the state  
71 for personal, family or household use.

72 (b) On or before January 1, 2023, each producer or such producer's  
73 designee, including, but not limited to, a gas cylinder stewardship  
74 organization, shall notify the Commissioner of Energy and

75 Environmental Protection, in writing, that the producer will act  
76 individually or jointly with other producers to submit a stewardship  
77 plan to the commissioner for the establishment of a state-wide gas  
78 cylinder stewardship program. Any person that is not a resident in the  
79 state but that is a brand holder of a brand that is used in connection with  
80 gas cylinders may volunteer to submit a gas cylinder stewardship plan  
81 to the commissioner individually or may join a gas cylinder stewardship  
82 organization if such person enters a written agreement with one or more  
83 producers described in subparagraph (A), (B) or (C) of subdivision (10)  
84 of subsection (a) of this section for the purpose of carrying out a  
85 producer's responsibilities relating to gas cylinders under such plan.  
86 Any such stewardship plan shall be submitted to the commissioner not  
87 later than July 1, 2023.

88 (c) Any gas cylinder stewardship program shall, to the extent it is  
89 technologically feasible and economically practical: (1) Minimize public  
90 sector involvement in the management of discarded gas cylinders; (2)  
91 provide for free, convenient and accessible state-wide opportunities for  
92 the receipt of gas cylinders used by consumers for personal, family or  
93 household use at eligible entities; (3) provide for pick-up of discarded  
94 gas cylinders from eligible entities; and (4) provide for the transport and  
95 management of discarded gas cylinders picked-up from eligible entities  
96 in accordance with agreements between producers and eligible entities  
97 which shall be consistent with any provision of the law.

98 (d) Any plan submitted pursuant to subsection (b) of this section  
99 shall: (1) Provide for refilling or recycling cylinders and capturing  
100 residual gases for reuse; (2) establish performance goals for the first two  
101 years of the gas cylinder stewardship program; (3) identify eligible  
102 entities to be used pursuant to the program; (4) detail how the program  
103 will promote the collection of discarded gas cylinders supplied to  
104 consumers for personal, family or household use; (5) include a  
105 description of the public education program that will be used to  
106 promote consumer knowledge of the program; and (6) identify  
107 producers participating in the program.

108 (e) The Commissioner of Energy and Environmental Protection shall  
109 approve a plan for the establishment of a gas cylinder stewardship  
110 program, provided such plan meets the requirements of this section.  
111 Not later than ninety days after submission of the plan, the  
112 commissioner shall make a determination on whether to approve the  
113 plan. Prior to making such determination, the commissioner shall post  
114 the plan on the department's Internet web site and solicit public  
115 comments on the plan. Such solicitation shall not be conducted pursuant  
116 to chapter 54 of the general statutes. In the event that the commissioner  
117 disapproves the plan because it does not meet the requirements of this  
118 section, the commissioner shall describe the reasons for the disapproval  
119 in a notice of determination that the commissioner shall provide to the  
120 producer or producer's designee that submitted the gas cylinder  
121 stewardship plan. Such producer or producer's designee shall revise  
122 and resubmit the plan to the commissioner not later than forty-five days  
123 after receipt of the commissioner's notice of disapproval. Not later than  
124 forty-five days after receipt of the revised plan, the commissioner shall  
125 review and approve or disapprove the revised plan, and provide a  
126 notice of determination to the producer or producer's designee that  
127 submitted the revised gas cylinder plan. Such producer or producer's  
128 designee may resubmit a revised plan to the commissioner for approval  
129 on not more than two occasions. If the producer or producer's designee  
130 fails to submit a plan that is acceptable to the commissioner because it  
131 does not meet the requirements of this section, the commissioner shall  
132 modify a submitted plan to make it conform to the requirements of this  
133 section and approve it. Not later than October 1, 2025, each producer  
134 shall be part of an approved and implemented gas cylinder stewardship  
135 program.

136 (f) Not later than thirty months after the date on which an approved  
137 gas cylinder stewardship program is implemented, the producer or  
138 producer's designee that submitted the applicable approved gas  
139 cylinder stewardship plan shall submit updated performance goals to  
140 the commissioner that are based on the experience of the program  
141 during the first two years of the program.

142 (g) Each producer or producer's designee with an approved gas  
143 cylinder stewardship plan shall submit any proposed substantial  
144 change to the program to the Commissioner of Energy and  
145 Environmental Protection for approval. For the purposes of this section,  
146 "substantial change" means a material change to the system for  
147 collecting gas cylinders. If the commissioner does not disapprove a  
148 proposed substantial change not later than ninety days after receipt of  
149 notification of such proposed substantial change, such proposed  
150 substantial change shall be deemed approved.

151 (h) Each entity with an approved gas cylinder stewardship plan shall  
152 notify the Commissioner of Energy and Environmental Protection of  
153 other material changes to the program on an ongoing basis, without  
154 resubmission of the plan to the commissioner for approval. Such  
155 changes shall include, but not be limited to, a change in contact  
156 information of the producer or producer's designee and, if the designee  
157 is a gas cylinder stewardship organization, the identity of such  
158 organization's board of directors and officers.

159 (i) Each producer or producer's designee with an approved gas  
160 cylinder stewardship plan shall maintain all records relating to the  
161 applicable gas cylinder stewardship program for a period of not less  
162 than five years.

163 (j) Not later than October fifteenth of each year, each producer or  
164 producer's designee with an approved gas cylinder stewardship plan  
165 shall submit an annual report to the Commissioner of Energy and  
166 Environmental Protection, in a format prescribed by the commissioner.  
167 The commissioner shall post such annual report on the department's  
168 Internet web site. Such report shall include: (1) The producers  
169 participating in the plan for the previous calendar year; (2) the number  
170 of eligible entities, by type from which cylinders were picked up in the  
171 previous calendar year; (3) the number and tonnage of nonrefillable gas  
172 cylinders and the number of refillable gas cylinders picked up from each  
173 type of eligible entity during the previous calendar year; (4) the tonnage  
174 of nonrefillable gas cylinders recycled and the number of refillable gas

175 cylinders refilled and recycled during the previous calendar year; (5) a  
176 summary of the public education program that supports the program;  
177 (6) an evaluation of the effectiveness of methods and processes used to  
178 achieve performance goals of the program; and (7) recommendations for  
179 any changes to the program.

180 (k) Two years after the implementation of a gas cylinder stewardship  
181 program and every three years thereafter, or upon the request of the  
182 Commissioner of Energy and Environmental Protection but not more  
183 frequently than annually, each producer or producer's designee with an  
184 approved gas cylinder stewardship plan shall cause an audit of the  
185 information submitted pursuant to subdivisions (2) to (4), inclusive, of  
186 subsection (j) of this section by an auditor selected by the commissioner.  
187 Such audit shall review the accuracy of the producer or producer's  
188 designee's submitted information concerning the program and provide  
189 any other information requested by the commissioner that is consistent  
190 with the requirements of this section, provided such request shall not  
191 require the disclosure of any proprietary information or trade or  
192 business secrets. Such audit shall be paid for by the producer or  
193 producer's designee with the approved gas cylinder stewardship plan.

194 (l) Upon implementation of an approved gas cylinder stewardship  
195 plan, any eligible entity that participates in such plan shall not charge  
196 for the receipt of discarded gas cylinders used by consumers for  
197 personal, family or household use.

198 (m) Not later than three years after the approval of a gas cylinder  
199 stewardship plan, the Commissioner of Energy and Environmental  
200 Protection shall submit a report, in accordance with the provisions of  
201 section 11-4a of the general statutes, to the joint standing committee of  
202 the General Assembly having cognizance of matters relating to the  
203 environment. Such report shall provide an evaluation of the applicable  
204 gas cylinder stewardship program and establish a goal for the amount  
205 of discarded cylinders to be picked up under each program and a  
206 separate goal for the recycling of gas cylinders, taking into consideration  
207 technical and economic feasibilities. Such report shall also include an

208 evaluation of the Department of Energy and Environmental Protection's  
209 administrative fees for such program.

210 (n) Each producer or producer's designee, including any gas cylinder  
211 stewardship organization, shall be immune from liability for any claim  
212 of a violation of antitrust law or unfair trade practice, if such conduct is  
213 a violation of antitrust law, to the extent such producer, producer's  
214 designee or gas cylinder stewardship organization exercises authority  
215 pursuant to the provisions of this section.

216 (o) The Commissioner of Energy and Environmental Protection may  
217 seek civil enforcement of the provisions of this section pursuant to  
218 chapter 439 of the general statutes.

219 (p) Whenever, in the judgment of the Commissioner of Energy and  
220 Environmental Protection, any person has engaged in or is about to  
221 engage in any act, practice or omission that constitutes, or will  
222 constitute, a violation of any provision of this section, the Attorney  
223 General may, at the request of the commissioner, bring an action in the  
224 superior court for the judicial district of New Britain for an order  
225 enjoining such act, practice or omission. Such order may require  
226 remedial measures and direct compliance with the provisions of this  
227 section. Upon a showing by the commissioner that such person has  
228 engaged in or is about to engage in any such act, practice or omission,  
229 the court may issue a permanent or temporary injunction, restraining  
230 order or other order, as appropriate.

231 (q) Any action brought by the Attorney General pursuant to this  
232 section shall have precedence in the order of trial, as provided in section  
233 52-191 of the general statutes.

234 (r) In the event that another state implements a gas cylinder recycling  
235 program, a producer or producer's designee with an approved gas  
236 cylinder stewardship plan may collaborate with such state to conserve  
237 efforts and resources used in carrying out the applicable gas cylinder  
238 stewardship program, provided such collaboration is consistent with  
239 the requirements of this section.



240 (s) The Commissioner of Energy and Environmental Protection may  
241 assess a reasonable fee to each producer or producer's designee with an  
242 approved gas cylinder stewardship plan for administration of the  
243 applicable gas cylinder stewardship program. The Commissioner of  
244 Energy and Environmental Protection shall determine the share to be  
245 paid by each producer or producer's designee based on the share of the  
246 gas cylinder market represented by the producer or producer's  
247 designee. The total annual fees assessed on each producer with an  
248 approved gas cylinder stewardship plan shall not exceed a rate of two  
249 thousand dollars. The Commissioner of Energy and Environmental  
250 Protection shall annually publish documentation on the department's  
251 use of such fees.

252 (t) Any producer who fails to participate in an approved gas cylinder  
253 stewardship plan shall not supply, sell or offer for sale gas cylinders in  
254 this state.

255 (u) Notwithstanding any provision of this section, upon  
256 identification of any producer who is not participating in an approved  
257 gas cylinder stewardship program, the Commissioner of Energy and  
258 Environmental Protection shall issue a notice of noncompliance to such  
259 producer. Not later than January first of each year following  
260 implementation of such program, the Commissioner of Energy and  
261 Environmental Protection shall issue a report to the joint standing  
262 committee of the General Assembly having cognizance of matters  
263 relating to the environment on steps taken by the commissioner to  
264 address noncompliance with the provisions of this section and shall  
265 include in such report a list of noncompliant producers that received a  
266 notice of noncompliance pursuant to this subsection and that are not in  
267 compliance as of the date of such report. The Commissioner of Energy  
268 and Environmental Protection shall publish a list of the names of  
269 producers that are compliant with the provisions of this section on the  
270 Department of Energy and Environmental Protection's Internet web  
271 site.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2022</i>	New section

*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.*

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## **OFA Fiscal Note**

**State Impact:** None

**Municipal Impact:** None

### **Explanation**

The bill requires the establishment of a stewardship program for consumer gas cylinders (i.e., personal use propane cylinders). This is not expected to have a fiscal impact in FY 23 or FY 24 as the stewardship program begins in FY 25.

The bill states that producers must submit a plan for a gas stewardship program to the Department of Energy and Environmental Protection (DEEP) by July 1, 2023. It also stipulates that a plan must minimize public sector involvement and it allows DEEP to assess a fee to cover program administration. This has no fiscal impact to the state or municipalities, since the fee assessed to producers is structured to cover the administration cost.

Lastly, the bill allows DEEP to civilly enforce program requirements and establishes audit and reporting requirements. This has no fiscal impact since it is expected producers will comply with the program, based on experience from existing paint and mattress stewardship programs. There is also no fiscal impact as audit and reporting requirements fall under third-party producers.

House "A" makes various changes that do not have a fiscal impact to the state or municipalities.

### **The Out Years**

**State Impact:** None

**Municipal Impact:** The bill may result in savings to municipalities in the out years as these cylinders would be removed from the municipal solid waste (MSW) stream. The extent of municipal savings, estimated to be approximately \$100,000-\$200,000 annually, would depend on the volume of these products currently being disposed of in the MSW stream and the current tip fee for each municipality.

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**OLR Bill Analysis****sHB 5142 (as amended by House "A")\******AN ACT CONCERNING EXTENDED PRODUCER RESPONSIBILITY FOR CERTAIN GAS CYLINDERS.*****SUMMARY**

This bill requires the establishment of statewide stewardship programs for gas cylinders supplied to consumers for personal, family, or household use and discarded at certain locations.

Under the bill, gas cylinder producers must be part of an approved and implemented stewardship program by October 1, 2025. The bill prohibits producers who fail to participate in an approved gas cylinder stewardship plan from supplying, selling, or offering gas cylinders for sale in Connecticut, including through a sales outlet, catalog, website, or similar electronic means. Supplying also includes leasing, donating, or otherwise making available or distributing.

Under the bill, a plan for a gas stewardship program must be submitted to the Department of Energy and Environmental Protection (DEEP) for approval by July 1, 2023. Among other things, a plan must minimize public sector involvement in managing discarded gas cylinders. The bill allows the DEEP commissioner to assess a reasonable fee, based on market share, to cover program administration, but it caps the annual fee for each producer with an approved plan at \$2,000.

The bill also (1) allows the DEEP commissioner to civilly enforce program requirements, (2) establishes audit and reporting requirements, and (3) provides immunity to producers or their designees from antitrust or unfair trade practice claims under certain circumstances. It also allows for collaboration with another state with a gas cylinder recycling program.

\*House Amendment "A" (1) removes the Uniform Administrative Procedure Act (UAPA) requirement from the solicitation of public comments on the gas cylinder plan; (2) caps the annual administrative fee for producers at \$2,000; (3) eliminates the ability of producers or their designees to deduct from the fees the costs to collect cylinders from noncompliant producers; (4) requires DEEP's report about the stewardship program to also evaluate its administrative fees; (5) adds the notice and reporting provisions about noncompliant producers; and (6) eliminates a duplicative subsection.

EFFECTIVE DATE: July 1, 2022

## **PROGRAM SCOPE**

### ***Gas Cylinders***

Under the bill, a "gas cylinder" is a nonrefillable or refillable cylinder with flammable pressurized gas, helium, or carbon dioxide, with between 0.5- and 50-pounds water capacity, that is supplied to a consumer for personal, family, or household use. It includes seamless cylinders and tubes, welded cylinders, and insulated cylinders intended to contain helium, carbon dioxide, or a flammable material such as propane, butane, or other compressed gas. It does not include (1) a cylinder, tube, or container intended to deliver a non-compressed gas product; (2) medical or industrial-grade cylinders; (3) cylinders used by medical facilities or commercial enterprises; and (4) cylinders containing oxygen, refrigerants, acetylene, hydrogen, ethylene, or foam adhesives.

The bill covers gas cylinders discarded at the following locations: political subdivisions of the state, transfer stations, material recovery facilities, drop offs or events, disposal facilities, state parks or private campgrounds, or other approved entities that are part of an approved gas cylinder stewardship plan ("eligible entities").

### ***Producers***

The bill applies to gas cylinder "producers," which are generally Connecticut cylinder suppliers under the manufacturers' brands. If

there is no supplier, then the following, in order, would be considered the producer:

1. an owner or licensee of a trademark under which a cylinder is supplied in Connecticut, regardless of trademark registration;
2. an importer of a cylinder for supply to a consumer;
3. the retailer who supplies the cylinder to a consumer; or
4. anyone who facilitates supplying a cylinder by (a) owning or operating an online marketplace or forum that lists or advertises the cylinder for sale, (b) transmitting or otherwise communicating the offer to sell a cylinder, or (c) providing the physical distribution of a cylinder such as through storing, preparing, or shipping.

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

#### **PROGRAM PURPOSES AND ESTABLISHMENT**

By January 1, 2023, the bill requires gas cylinder producers or their designees (including a gas cylinder stewardship organization) to notify the DEEP commissioner in writing that they will submit a plan (see below) to establish a statewide gas cylinder stewardship program, either on their own or jointly with other producers. A gas cylinder stewardship organization, created by and representing producers, designs, submits, and implements a gas cylinder stewardship plan on their behalf.

The bill also allows a person who is not a Connecticut resident, but is a brand holder of a brand used in connection with gas cylinders, to submit a stewardship plan (individually or by joining a stewardship organization) to fulfill a producer’s responsibilities. The person must enter a written agreement with the producer (but not a retailer or supply facilitator who is a producer) and submit the plan by July 1, 2023.

Under the bill, a program must, to the extent it is technologically feasible and economically practical, minimize public sector involvement in managing discarded gas cylinders and provide the following:

1. free, convenient, and accessible statewide opportunities to receive gas cylinders used by consumers at eligible entities;
2. cylinder pick-up from eligible entities; and
3. cylinder transport and management after pick-up, according to agreements between producers and eligible entities.

Under the bill, once a stewardship plan is implemented, eligible entities participating in the plan cannot charge for receiving discarded gas cylinders.

#### **PLAN COMPONENTS**

Under the bill, a plan for a gas cylinder stewardship program must provide for refilling or recycling cylinders and capturing residual gases for reuse. It must also do the following:

1. describe how the program will promote collecting discarded cylinders supplied to consumers for personal, family, or household use;
2. identify the participating producers and eligible entities to be used;
3. establish performance goals for the program's first two years; and
4. describe its public education program.

A "performance goal" is a metric, proposed by the entity submitting the plan, to annually measure program performance. It must consider the technical and economic feasibility of achieving continuous and meaningful improvement in (1) the state's recycling rate for gas cylinders and (2) any other specified goal.



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## **PLAN APPROVAL AND IMPLEMENTATION**

### ***Process***

The bill requires the DEEP commissioner to determine whether to approve a plan for establishing a gas cylinder stewardship program under the following timeline: within 90 days after its submission but after posting the plan on DEEP's website and soliciting public comments. The bill specifies that the comment solicitation is not conducted under the UAPA.

She must approve a plan if it meets the bill's program and plan requirements. If she rejects a plan, the commissioner must provide a notice of determination describing the reasons for disapproval to the producer or its designee that submitted the plan. The plan submitter must revise and resubmit the plan to DEEP 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 plan's submitter. The bill limits revised plan resubmissions 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 submitter fails to provide an acceptable plan.

### ***Producer Participation***

Under the bill, the DEEP commissioner must publish a list of producers that comply with the bill's requirements on DEEP's website. It requires the commissioner to issue non-compliance notices to those who fail to participate in an approved program.

## **CHANGES TO A PLAN**

The bill requires producers or their designees with an approved stewardship plan to submit proposed substantial program changes to the DEEP commissioner for approval. Under the bill, a "substantial change" is a material change to the cylinder collection system. A proposed substantial change is deemed approved unless the commissioner disapproves it within 90 days after receiving notice of the

change.

The bill also requires that the DEEP commissioner be notified on an ongoing basis about other material changes to the program but without resubmitting the plan for approval. These changes include such things as (1) a change in the producer's or its designee's contact information and (2) if the designee is a stewardship organization, the identity of its board of directors and officers.

Within 30 months after an approved program's implementation, the plan submitter must submit to the commissioner updated performance goals, which must be based on the program's experience during its first two years.

#### **ADMINISTRATIVE FEE**

The bill allows the DEEP commissioner to assess a reasonable program administration fee to each producer or its designee with an approved gas cylinder stewardship plan. She must determine the share that each producer or designee must pay based on the gas cylinder market that it represents, but the total annual fees for each producer with an approved plan cannot exceed \$2,000. The bill requires the commissioner to annually publish documentation of DEEP's use of the fees.

#### **REPORTING REQUIREMENTS**

##### ***Producers***

Annually by October 15, the bill requires a producer or its designee with an approved stewardship plan to submit a report to the DEEP commissioner in a format she prescribes. The report must then be posted on DEEP's website. Under the bill, the report must include the following information for the prior calendar year:

1. producers participating in the plan;
2. number of eligible entities, by type, from which cylinders were picked up;

3. number and tonnage of nonrefillable gas cylinders and number of refillable gas cylinders picked up from each eligible entity type; and
4. tonnage of nonrefillable gas cylinders recycled and number of refillable gas cylinders refilled and recycled.

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

### **DEEP**

**Program Evaluation.** Within three years after a plan's approval, the DEEP commissioner must submit a report to the Environment Committee that evaluates the applicable gas cylinder stewardship program, including DEEP's administrative fees for it. The report must also establish goals for (1) the amount of discarded cylinders to be picked up under each program and (2) recycling cylinders, considering technical and economic feasibility.

**Non-compliant Producers.** By January first each year after the program begins, the DEEP commissioner must submit a report to the Environment Committee with (1) her steps taken to address non-compliance with the bill's provisions and (2) a list of non-compliant producers that received a non-compliance notice and are not in compliance as of the report date.

### **AUDIT REQUIREMENTS**

#### **Program Audit**

Two years after a program's implementation, and then every three years after, a producer or its designee with an approved stewardship plan must pay for a program audit by a commissioner-selected auditor. The bill also allows the commissioner to request this audit not more than once per year.

The bill specifies that the audit must include the previous year's number of entities and the number and tonnage of gas cylinders picked up and recycled or refilled under the program. The audit must also review the accuracy of the submitted program information (e.g., annual report) and provide any other information the commissioner requests that is consistent with the bill's requirements, but not any proprietary information or trade or business secrets.

The bill requires a producer or its designee with an approved stewardship plan to maintain all program records for at least five years.

### ***Audited Financial Statements***

Existing law requires any product stewardship organization operating in the state to submit to DEEP, annually by May 1, 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 a gas cylinder stewardship organization established to fulfill the bill's requirements.

### **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 the commissioner believes that a person has engaged in, or is about to engage in, an 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.

### **LIABILITY PROTECTION**

Under the bill, to the extent a producer or its designee (including a

stewardship organization) is exercising authority according to the bill's provisions, it is immune from liability for an antitrust or unfair trade practice claim based on an antitrust law violation.

**INTERSTATE COLLABORATION**

The bill allows a producer or its designee with an approved stewardship plan to collaborate with another state that has a gas cylinder recycling program to conserve efforts and resources; however, the collaboration must be consistent with the bill's requirements.

**COMMITTEE ACTION**

Environment Committee

Joint Favorable Substitute

Yea 31 Nay 0 (03/04/2022)