AN ACT CONCERNING EXTENDED PRODUCER RESPONSIBILITY FOR CONSUMER PACKAGING.

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

Section 1. (Effective October 1, 2022) For the purposes of this section:

1. "Break-even point" means the minimum number of reuses after which a covered material designed for reuse is environmentally preferable to a comparable covered material intended for discard after a single use;

2. "Commissioner" means the Commissioner of Energy and Environmental Protection;

3. "Covered materials" means packaging, packaging-like products and paper. "Covered materials" does not include any material that could become unsafe or unsanitary to recycle by virtue of the anticipated use of the material or design of the material, as determined by the stewardship plan approved pursuant to this section;

4. "Department" means the Department of Energy and
Environmental Protection;

a) "Packaging" means any container or material used for the containment, protection, handling, delivery or presentation of goods that are intended for the consumer market, including through an internet transaction. "Packaging" does not include: (A) Any container or material used for the multiyear protection or storage of a product; (B) any beverage container subject to the provisions of section 22a-243 of the general statutes; (C) any container for architectural paint, as defined in section 22a-904 of the general statutes, that is recycled through a paint stewardship program that is in operation and that has been approved by the department pursuant to section 22a-904a of the general statutes; or (D) any other containers or materials collected through any other stewardship program;

b) "Packaging-like products" means the following products that are intended for the consumer market, including through an Internet transaction, that are not packaging and are ordinarily discarded after a single use or short-term use, whether or not they could be reused: (A) Food containers, including, but not limited to, take-out food containers, (B) foil and wraps, (C) bags, (D) boxes, (E) straws and items used to stir beverages, (F) utensils, plates, bowls and cups, (G) party supplies, and (H) objects purchased by or supplied to consumers expressly for the purpose of protecting, containing or transporting commodities or products;

c) "Packaging stewardship program" or "program" means a program implemented under this section by a responsible party or stewardship organization;

d) "Paper materials" means paper that is not packaging and that is printed with text or graphics or intended to be printed with text or graphics as a medium for communicating information, including, but not limited to: (A) Newsprint and inserts; (B) magazines and catalogs; (C) paper used for copying, writing, or other general use; (D) telephone directories; (E) flyers; (F) brochures; and (G) booklets. "Paper materials"
does not include bound reference, literary or text books;

(9) "Stewardship plan" or "plan" means a plan described in subsection (e) of this section that describes the manner in which a packaging stewardship program will be administered and operated;

(10) "Post-consumer recycled content" means a material or product that was made or manufactured from materials that have completed their intended end use and product life cycle, from households or by commercial, industrial or institutional facilities and that have been separated from the solid waste stream for the purposes of collection and recycling. "Post-consumer recycled content" does not include secondary waste material or materials and by-products generated from, and commonly used within, an original manufacturing and fabrication process;

(11) "Reasonable rate" means the funding rate calculated and dispersed by a responsible party or stewardship organization using a formula approved by the Commissioner of Energy and Environmental Protection and that may vary for: (A) Any municipality that elects to collect, transport, process and market covered materials through its own municipal crew or fleet, (B) any municipality that elects to provide for collection, transportation, processing and marketing of covered materials through a contract with a service provider, or (C) a service provider that collects, transports, processes and markets covered materials through a subscription. "Reasonable rate" for a municipality includes consideration of (i) the cost to collect, transport, process and market covered materials, (ii) the cost to collect and transport covered materials, container rental and fund staff at a transfer station, and (iii) population density of the municipality;

(12) "Recycling" means the transforming or remanufacturing of a covered material or a covered material's components and by-products into usable or marketable materials in lieu of virgin materials. "Recycling" does not include landfill disposal, incineration, energy recovery or energy generation by means of combustion, or final
conversion to a fuel, of a covered material or covered material's
components and by-products. "Recycling" for plastics includes a fuel
that is converted to a raw material that is used for the manufacture of
new products.

(13) "Recycled" means: (A) For sorted glass, that such material does
not require further processing before entering a glass furnace or before
use in the production of filtration media, abrasive materials, glass fiber
insulation or construction materials; (B) for sorted metal, the material
does not require further processing before entering a smelter or furnace;
(C) for sorted paper, the material does not require further processing
before entering a pulping operation; and (D) for sorted plastic, the
material does not require further processing before entering a
pelletization, extrusion or molding operation or, in the case of plastic
flakes, the material does not require further processing before use in a
final product;

(14) "Responsible party" means any person that is determined to be
the responsible party for a covered material, as described in subsection
(b) of this section;

(15) "Retailer" means any person who sells or offers for sale a product
to a consumer, including sales made through an Internet transaction to
be delivered to a consumer in this state;

(16) "Reuse" or "reusable" means, with respect to a covered material,
that the covered material (A) is capable of being refilled or reused for its
original purpose and the responsible party or a designated third party
for that covered material provides a program for the consumer to refill
the covered material; or (B) the responsible party or a designated third
party for that covered material provides a program where the covered
material is collected and refilled or reused by the responsible party or
another responsible party provided such program meets or exceeds any
recovery, recycling and reuse performance goals established pursuant
to this section and such covered materials are designed to be reused and
refilled within the material's lifecycle to the break-even point with a
comparable discarded covered material;

(14) "Stewardship organization" means a nonprofit organization, association or entity that assumes the responsibilities, obligations and liabilities under this section of multiple responsible parties for covered materials;

(b) The responsible party for a covered material shall be determined as follows:

(1) For covered materials sold or distributed at a physical retail location in the state: (A) The responsible party is the person who manufactures the covered material or good sold in covered material if the covered material or good is sold under the manufacturer's own brand or is sold in covered materials that lack identification of a brand; (B) if the covered material or good is manufactured by a person other than the brand owner, the responsible party is the person that is the licensee of a brand or trademark under which the covered material or good is used in a commercial enterprise, sold, offered for sale or distributed in or into this state, whether or not the trademark is registered in this state; and (C) if there is no person described in subparagraph (A) or (B) of this subdivision within the United States, the responsible party is the person that imports the covered material or good into the United States for use in a commercial enterprise that sells, offers for sale or distributes the covered material or good into this state.

(2) For covered materials sold or distributed in or into this state via remote sale or distribution: (A) The responsible party for a covered material used to directly protect or contain a good, whether or not the good is a covered material, is the same as the responsible party for purposes of subdivision (1) of this subsection, and (B) the responsible party for the covered material used to ship a good to a consumer, whether or not the good is a covered material, is the person that ships the covered material or good to the consumer.

(c) On or before January 1, 2024, any responsible party or stewardship organization authorized to operate and administer a program on its
behalf that intends to submit a stewardship plan pursuant to subsection (e) of this section shall register with the Commissioner of Energy and Environmental Protection provided any responsible party or stewardship organization operating on behalf of responsible parties may submit a registration for approval to the commissioner in accordance with this subsection after January 1, 2024, provided a responsible party only participates in one stewardship organization for each of such party's types of covered materials. Such registration shall be on a form prescribed by the commissioner and shall: (1) Identify each responsible party that intends to authorize the stewardship organization to operate and administer a program on its behalf, (2) provide the name, address and contact information of any person responsible for ensuring the responsible party or stewardship organization and the responsible parties that have authorized the stewardship organization to operate a program on such parties' behalf comply with the requirements of this section, and (3) describe a study conducted by a third-party that the responsible party or stewardship organization intends to fund to assess recycling and covered materials management needs in the state. Such study may build on the plan developed pursuant to section 22a-228 of the general statutes to assess, but not be limited to, (A) the current rates for the performance goals described in this section, to the extent available, (B) current funding needs affecting recycling access and availability in the state, (C) the capacity, costs and needs associated with the collection, transportation and processing of covered materials in the state, and (D) consumer education needs in the state with respect to recycling and reducing contamination in collected covered materials. The Commissioner of Energy and Environmental Protection shall make a determination whether to approve the study required by this subdivision. In the event that the commissioner disapproves such study because it does not meet the requirements of this subdivision, the commissioner shall describe the reasons for the disapproval in a notice of determination that the commissioner shall provide to the responsible party or stewardship organization. The responsible party or stewardship organization shall revise and resubmit the study to the commissioner not later than thirty
days after receipt of notice of the commissioner's disapproval notice.
Not later than thirty days after receipt of the revised study, the
commissioner shall review and approve or disapprove the revised
study, and provide a notice of determination to the responsible party or
stewardship organization. The responsible party or stewardship
organization may resubmit a revised study to the commissioner for
approval on not more than one occasion. If the responsible party or
stewardship organization fails to submit a study that is acceptable to the
commissioner because it does not meet the requirements of subdivision
(3) of this subsection, the commissioner shall modify a submitted study
to make it conform to the requirements of subdivision (3) of this
subsection and approve it. In deciding whether to approve any such
study, the commissioner may consider prior registrations submitted by
any responsible party or stewardship organization. After the
commissioner approves a study, the responsible party or stewardship
organization shall cause such study to be conducted.

(d) (1) Not later than one hundred eighty days after a responsible
party or stewardship organization registers with the Commissioner of
Energy and Environmental Protection, the responsible party or
stewardship organization shall establish and nominate members to an
advisory committee to advise and provide comment to the responsible
party or stewardship organization regarding any plan prior to approval,
and any substantive changes to a program prior to submission in
accordance with the provisions of this section. Such advisory committee
shall meet not less than once a year or more frequently as needed, and
shall review any plans, revisions to a plan or substantive changes to a
plan prior to submission of such plan, revisions or changes to the
commissioner in accordance with the provisions of this section. The
advisory committee shall assume the responsibilities assigned to it
under this section for any and all subsequent responsible parties or
stewardship organizations.

(2) Any such advisory committee shall include, at a minimum (A) the
Commissioner of Energy and Environmental Protection, or the
commissioner's designee, (B) a representative from a municipal
association or municipal government, (C) a representative of a regional or municipal waste management program, (D) an individual with expertise in the development of recycling markets, (E) a representative of a materials recycling facility located in the state, (F) a representative of waste haulers, or a regional waste management and recycling organization, (G) a representative of a state-wide retail association, (H) a representative of a nonprofit environmental advocacy organization, (I) a representative of a community-based organization or an organization representing equity and underrepresented stakeholders, (J) a representative of a nonprofit organization dedicated to litter cleanup, (K) an individual with expertise in environmental and human health, (L) a representative of a manufacturer of packaging, (M) a representative of a material supplier, and (N) a representative of responsible parties.

(3) The Commissioner of Energy and Environmental Protection shall approve all nominations to any such advisory committee and may add new members to such advisory committee at the commissioner's discretion. The commissioner may not approve an advisory committee member to fulfill more than one of the membership categories provided for in subdivision (2) of this subsection.

(e) On or before January 1, 2025, a responsible party or a stewardship organization authorized to operate and administer a program on behalf of responsible parties shall submit a stewardship plan for the establishment of a packaging stewardship program described in this subsection to the Commissioner of Energy and Environmental Protection for approval. Any such packaging stewardship program shall: (1) Minimize public sector involvement in the management of covered materials, (2) to the greatest extent technologically feasible and economically practical, manage covered materials in accordance with the sustainable materials management priority provided for in subsection (b) of section 22a-228 of the general statutes, (3) minimize greenhouse gas emissions from the lifecycles of covered materials and from program operation, (4) negotiate and execute agreements to collect, transport and process covered materials using environmentally
sound management practices, (5) provide for convenient and accessible state-wide collection of covered materials that shall be at least as convenient as the collection methods used as of the effective date of this section, (6) ensure meaningful and continuous improvement of the program, (7) develop and equitably assign to responsible parties a fee sufficient to cover the costs of operating and administering the program consistent with the requirements of this section, (8) provide technical assistance to municipalities, regional associations, waste and recycling collectors, transporters and processors, and any other entity that participates in the packaging stewardship program, as needed to achieve compliance with the performance goals described in this section, (9) provide for investment in existing and future reuse programs, recycling infrastructure and end-market development in the state, as needed to achieve compliance with the performance goals described in this section, (10) provide consistent and ongoing outreach, education and communication to consumers throughout the state regarding participation in the program, and (11) for covered materials, ensure compliance with sections 22a-255h to 22a-255m, inclusive, of the general statutes and ensure continuous and meaningful reduced toxicity of covered materials.

(f) Any stewardship plan submitted pursuant to this section shall be submitted on a form prescribed by the Commissioner of Energy and Environmental Protection and shall: (1) Identify each responsible party that authorized the stewardship organization to operate and administer the program on the party's behalf and the brands and types of covered materials of the responsible parties participating in the stewardship organization, (2) provide the name, address and contact information of each person responsible for ensuring the stewardship organization and the responsible parties that have authorized the stewardship organization to operate such program on their behalf in compliance with the provisions of this section, (3) include the results from the study conducted pursuant to subsection (c) of this section, (4) describe how the program will fund the net costs associated with the collection, transportation, processing and marketing of covered materials.
including payments to public and private entities at a reasonable rate,
(5) propose state-wide performance goals, and a justification for each
goal, for each type of covered material sold in the state to be achieved
not later than five years after the implementation date of the program.
Such performance goals shall be technologically feasible and
economically practical and shall include (A) a minimum reduction rate
measured as the total reduction in volume of each type of covered
material, (B) a minimum reuse rate measured as the total amount of each
type of covered material exempted from the program through transition
to a reuse program, (C) a minimum recovery rate measured as the total
amount of each type of covered material divided by the tons of such
type of covered material recovered through collection, (D) a minimum
recycling rate measured as the total amount of each type of covered
material divided by the tons of such type of covered material managed
through recycling, (E) a minimum post-consumer recycled content rate
measured as the percentage of total tons of each type of covered material
manufactured using post-consumer recycled content over a year, and
(F) a minimum contamination rate for recycling collection measured as
the percentage of total covered materials collected divided by the
amount of covered materials disposed after collection, (6) describe the
general process for state-wide, year-round convenient and accessible
collection and transportation of covered materials, including collection
from residences, multifamily apartment buildings, public spaces and
transfer stations and other residential recycling collection locations.
Such collection shall be at least as convenient as the system utilized as
of the effective date of this section and shall be provided at no cost to
residences and multi-family apartment buildings from which covered
materials are collected. Accessible collection of covered materials shall
include arrangement for diverse physical and language needs of a
certain population, (7) describe how collected covered materials will be
processed, including the names of contracted facilities and end markets.
For any covered material that will be marketed for use through a
method other than mechanical recycling, the plan shall describe: (A)
How the proposed method will affect the ability of the material to be
recycled into feedstock for the manufacture of new products, (B) how
the proposed method will affect the types and amounts of plastic
recycled for food and pharmaceutical-grade applications, (C) any
applicable air, water and waste permitting compliance requirements,
and (D) an analysis of the environmental impacts for the proposed
method compared to the environmental impacts of mechanical
recycling, incineration and landfill disposal as solid waste, (8) describe
how the program will provide technical assistance to municipalities,
regional associations, waste and recycling collectors, transporters and
processors and other entities that participate in the stewardship
program, (9) describe how the program will abate covered materials
litter in the state. Such program shall not include payments for litter
cleanup, but may include, but not be limited to, grants to nonprofits for
litter collection programs in the state, sponsorships and serving as
advisors to such nonprofits, litter prevention and reduction programs,
and litter education programs, (10) describe how the program intends
to provide consistent and ongoing outreach, education and
communication to consumers throughout the state regarding
participation in the program. To the greatest extent feasible, the
program shall ensure that any educational materials developed for the
program have consistent branding and are consistent with RecycleCT
Foundation educational messaging and materials, and that educational
materials are developed to have applicability to all residents of the state,
including, but not limited to, residents with varying methods of
collection of covered materials, residents with multilingual needs,
residents who live in single-family housing or multifamily housing and
residents who are underserved by traditional methods of
communication, (11) describe how the program intends to provide for
investment in existing and future reuse programs, recycling
infrastructure, and end-market development in the state, (12) include a
description of a closure plan that shall ensure that in the event the
stewardship organization ceases to exist or the commissioner suspends
or revokes approval of an implemented plan, the funds held by the
stewardship organization will (A) remain within a separate fund until
the commissioner renews approval of a plan, or (B) be transferred to a
successor stewardship organization, (13) if more than one responsible
party or stewardship organization registers with the commissioner to
carry out the requirements of this section, each responsible party or
stewardship organization submitting a plan for approval shall describe
how it intends to collaborate with other responsible parties or product
stewardship organizations in the state, (14) describe how the
stewardship organization intends to address the program needs
assessed through the approved study conducted pursuant to subsection
(c) of this section, and (15) include any other information required by
the commissioner.

(g) Nothing in this section shall preclude additional responsible
parties or stewardship organizations authorized to operate and
administer a program on behalf of responsible parties from submitting
plans for approval to the commissioner in accordance with this section
after January 1, 2025, provided a responsible party shall authorize only
one stewardship organization per type of covered material.

(h) Any stewardship organization, authorized by a responsible party
to operate and administer a program on its behalf, shall establish a fee
structure that covers, but does not exceed, the costs of (1) developing the
plan described in subsection (f) of this section, (2) operating and
administering the program described in subsection (e) of this section,
and (3) maintaining a financial reserve sufficient to operate the program
over a multiyear period of time in a fiscally prudent and responsible
manner. Such stewardship organization may update the fee schedule no
more than annually as needed, or as directed by the commissioner if the
commissioner determines that the modulations are insufficient to
incentivize program or covered materials redesign. Such fee schedule
shall: (A) Reflect a responsible party’s share of covered materials sold in
the state, (B) provide for a flat-fee option to be assessed on a tiered basis
such that any responsible party other than a responsible party that is
exempt and that generates less than fifteen tons of covered materials in
a calendar year, is required to pay not more than five hundred dollars
per ton of covered materials to the stewardship organization pursuant
to this subsection, regardless of the type of covered material, (C) for
responsible parties that are not exempt, reflect the cost to collect, process
and market the type of covered material sold in the state by a responsible party. Such fee structure shall include, but not be limited to, modulations to payments in a manner that incentivizes, through increased or reduced fees, the following: (i) The use of covered materials that have a longer life span, (ii) the use of recycled content in covered materials, (iii) increased recyclability of covered materials, (iv) lower toxicity in covered materials, (v) a reduction in the amount of covered materials used, (vi) a reduction in the amount of a responsible party's covered materials in litter, (vii) labeling of covered materials in such a way that reduces consumer confusion, (viii) the use of covered materials that are recycled in a country listed as a member of the Organization for Economic Cooperation and Development, (ix) the use of covered materials that do not disrupt recycling processes, and (x) the use of covered materials that have lower associated greenhouse gas emissions.

(i) Nothing in this section shall prohibit a stewardship organization from establishing and requiring by private agreement or contract the payment of other fees associated with a covered material's supply chain by third parties that are not responsible parties.

(j) Not later than one hundred eighty days after submission of a plan pursuant to this section, the Commissioner of Energy and Environmental Protection shall make a determination whether to approve such plan. Prior to making such determination, the commissioner shall post the plan on the Department of Energy and Environmental Protection's Internet web site and accept public comments on the plan. In the event that the commissioner disapproves the plan because it does not meet the requirements of this section, the commissioner shall describe the reasons for the disapproval in a notice of determination that the commissioner shall provide to the responsible party or stewardship organization, as applicable. The responsible party or stewardship organization, as applicable, shall revise and resubmit the plan to the commissioner not later than sixty days after receipt of notice of the commissioner's disapproval notice. Not later than forty-five days after receipt of the revised plan, the commissioner shall review and approve or disapprove the revised plan and provide a notice of
determination to the responsible party or stewardship organization. The responsible party or stewardship organization may resubmit a revised plan to the commissioner for approval on not more than two occasions. If the responsible party or stewardship organization fails to submit a plan that is acceptable to the commissioner because it does not meet the requirements of this section, the commissioner shall modify a submitted plan to make it conform to the requirements of this section and approve it. Not later than one hundred eighty days after the approval of a plan pursuant to this section, the responsible party or stewardship organization, as applicable, shall implement the approved plan for a packaging stewardship program. In deciding whether to approve any such plan, the commissioner may consider any of the following: (1) The extent to which the advice and comments provided by the advisory committee to the stewardship organization regarding the plan and the process by which the stewardship organization intends to include advice and comments regarding future program expansions and improvements and the operation of the program were included in the plan, (2) the achievability of performance goals in such plan subdivision including: (A) The specificity of material types, and (B) the performance goals set in other jurisdictions, (3) the timeliness and effectiveness of the plan to achieve the requirements of this section, (4) whether the funding mechanism described in the plan by the stewardship organization is reasonable and adequate to fund the costs of such program in accordance with the provisions of this section, and (5) the extent to which the plan adequately promotes the sustainable materials management priority set forth in subsection (b) of section 22a-228 of the general statutes and moves covered materials higher up the sustainable materials management prioritization.

(k) Each responsible party or stewardship organization, as applicable, shall submit any proposed substantive changes to a program to the Commissioner of Energy and Environmental Protection for approval and present said substantive changes to the applicable advisory committee for comment. For the purposes of this section, "substantive change" means: (1) A change in the processing facilities to
be used for covered materials collected pursuant to the program, or (2) a material change to the system for collecting, transporting or processing covered materials.

(l) Not later than three years after the implementation date of a program, each responsible party or stewardship organization, as applicable, shall submit updated performance goals to the Commissioner of Energy and Environmental Protection that are based on the experience of the program during the first three years of the program.

(m) Each responsible party or stewardship organization, as applicable, shall notify the Commissioner of Energy and Environmental Protection of other material changes to such program on an ongoing basis, without resubmission of the plan to the commissioner for approval. Such changes shall include, but not be limited to, any change in the composition, officers or contact information of such responsible party or stewardship organization, as applicable.

(n) On and after the implementation date of a stewardship program pursuant to this section, a responsible party's covered materials may not be sold in the state unless the covered materials are managed under an approved stewardship plan and the responsible party has submitted all required information and fees to any applicable stewardship organization that is authorized to operate and administer a program on such party's behalf. Any new covered materials sold at retail or sold or distributed through remote sale after the implementation date of a stewardship program pursuant to this section shall be reported to the Commissioner of Energy and Environmental Protection by such stewardship organization. No retailer or distributor shall be found to be in violation of the provisions of this subsection if, on the date the covered material was ordered from the responsible party or its agent, the responsible party was listed on the Department of Energy and Environmental Protection's Internet web site in accordance with the provisions of this section.
(o) Not later than October fifteenth of each year, each responsible party or stewardship organization authorized to operate and administer a stewardship program pursuant to this section shall submit an annual report to the Commissioner of Energy and Environmental Protection on a form prescribed by the commissioner. The commissioner shall post such annual report on the Department of Energy and Environmental Protection's Internet web site. Such report shall include: (1) A list of responsible parties and the brands and types of covered materials of the responsible parties participating in any such stewardship organization, (2) the tonnage, by type, of covered materials sold in the state by responsible parties during the prior year, (3) progress made toward achieving the performance goals and an evaluation of the effectiveness of methods and processes used to achieve such performance goals of the program, (4) a description of how such stewardship organization intends to improve the program in line with performance goals, if such evaluation demonstrates the program is not achieving the approved performance goals, (5) the tonnage, by type, of covered materials managed through: (A) Recycling, (B) disposal, and (C) any other method, (6) a description of how the processes, methods and end-markets used to manage each type of covered material promoted the sustainable materials management priority in subsection (b) of section 22a-228 of the general statutes, including for covered material that was not managed through recycling, (7) a description of the efforts taken by or on behalf of responsible parties or the stewardship organization, as applicable, to minimize environmental and human health impacts throughout the program operation and covered material life cycle and to increase reusability or recyclability at the end of the material's life cycle, (8) identification of covered materials that could be designed to be refillable or reusable, (9) a detailed description of any strategic investment in reuse and recycling infrastructure and end-market development in the state, (10) the fee schedule developed by the responsible party or stewardship organization, as applicable, for the prior year, and a description of how the fees incentivized collection, processing or redesign of covered materials pursuant to the modulations described in this section, (11) the estimated fee schedule.
for the next year, including the expected fee rate changes based on shifts in material value, (12) a description of covered material litter abatement efforts taken by, on behalf of, or funded by, the responsible party or stewardship organization, as applicable, (13) a description of the outreach, education and communication efforts taken by, on behalf of, or funded by, the responsible party or stewardship organization, as applicable, (14) recommendations for changes to the program, and (15) any other information requested by the commissioner.

(p) Two years after the implementation of a stewardship program pursuant to this section and every two years thereafter, or upon the request of the Commissioner of Energy and Environmental Protection but not more frequently than once per year, each responsible party or stewardship organization, as applicable, authorized to operate and administer a stewardship program pursuant to this section shall cause an audit of the program to be conducted by an independent auditor. Such audit shall review the accuracy of the responsible party or stewardship organization's data concerning the program and provide any other information requested by the Commissioner of Energy and Environmental Protection, consistent with the requirements of this section. Such audit shall be paid for by the responsible party or stewardship organization, as applicable. The responsible party or stewardship organization, as applicable, shall maintain all records relating to the program for not less than three years.

(q) The Commissioner of Energy and Environmental Protection may require a plan to be reviewed or revised at any time if the commissioner (1) has reason to believe the performance goals set pursuant to this section are not being met or followed by a responsible party or stewardship organization, as applicable, (2) has reason to believe the performance goals set pursuant to this section are insufficient to drive increased improvement in the stewardship program, or (3) determines a change in circumstances warrants revision of the plan. The commissioner may rescind approval of a stewardship plan at any time.

(r) A responsible party is exempt from the requirements of this
section if the responsible party: (1) Would otherwise be considered a responsible party but is responsible for less than one ton of covered materials per year in the state, (2) has a gross annual revenue of less than two million dollars, or (3) is a municipality.

(s) If a responsible party can demonstrate to the satisfaction of the applicable stewardship organization that a type of covered material sold in the state by such responsible party achieved an eighty-five per cent or greater recycling rate in the state during the prior calendar year, the stewardship organization may reduce the fees owed by the responsible party under this section to an amount that represents no more than the costs associated with the collection and transportation for recycling in the state of that type of covered material. Any reduced fees owed by a responsible party pursuant to this subsection shall remain subject to the adjustments described in this section.

(t) The Commissioner of Energy and Environmental Protection shall exempt a covered material from the fee payment established in this section if a responsible party can demonstrate to the commissioner that said covered material is managed through a viable reuse program. In order to obtain such exemption, the responsible party shall provide the commissioner, on a form prescribed by the commissioner, with information that demonstrates (1) such necessity, and (2) how the responsible party intends to recover and recycle reusable covered material at end of the material's life. The responsible party shall report to the commissioner any substantive changes to such reuse program. The commissioner may rescind an exemption issued pursuant to this subsection if the approved reuse program no longer conforms to the information submitted by the responsible party pursuant to this subsection.

(u) The Commissioner of Energy and Environmental Protection shall not require the disclosure of any information that the commissioner finds to be confidential information. For purposes of this subsection, "confidential information" means any information that if made public would divulge competitive business information, methods or processes
entitled to protection as trade secrets of such responsible party or
stewardship organization, or information that would reasonably hinder
the responsible party or stewardship organization's competitive
advantage in the marketplace.

(v) Not later than three years after the approval of any stewardship
plan pursuant to this section, the Commissioner of Energy and
Environmental Protection shall submit a report, in accordance with the
provisions of section 11-4a of the general statutes, to the joint standing
committee of the General Assembly having cognizance of matters
relating to the environment that describes the results of the applicable
packaging stewardship program and that recommends modifications to
improve the functioning and efficiency of any such program, as
necessary.

(w) Not later than the implementation date of any stewardship
program authorized pursuant to this section, the Department of Energy
and Environmental Protection shall list the names of participating
responsible parties and the brands covered by such stewardship
program on the department's Internet web site.

(x) The Department of Energy and Environmental Protection shall
maintain online public records of registered stewardship organizations,
stewardship plans and plan amendments approved pursuant to this
section, annual reports submitted by the responsible party or
stewardship organization, as applicable, to the department, annual
reports by the department to the General Assembly and any other
information the department determines relevant to the provisions of
this section.

(y) Each responsible party or stewardship organization authorized to
operate and administer a stewardship program approved pursuant to
this section shall maintain a public Internet web site that shall, at a
minimum, provide the following information: (1) Each responsible
party that has authorized a stewardship organization to operate and
administer the stewardship program on its behalf and the brands and
types of covered materials of the responsible parties participating in such packaging stewardship organization, and (2) all applicable plans approved pursuant to this section, annual reports and audit results.

(z) Each responsible party, retailer or stewardship organization, including a responsible party's, retailer's or stewardship organization's officers, members, employees and agents that organize a packaging stewardship program pursuant to this section shall be immune from liability for the responsible party's, retailer's or stewardship organization's conduct under state laws relating to antitrust, restraint of trade, unfair trade practices and any other regulation of trade or commerce only to the extent necessary to plan and implement the responsible party's, retailer's or stewardship organization's stewardship program in accordance with the provisions of this section.

(aa) Not later than July 1, 2023, the Commissioner of Energy and Environmental Protection shall establish reasonable fees for administering the program described in this section. All fees charged shall be based on factors relative to the costs of administering such program and shall fully cover but not exceed expenses incurred by the commissioner for the implementation of such program, including administrative fees associated with sections 22a-255h to 22a-255m, inclusive, of the general statutes.

(bb) For covered materials collected, transported, processed or marketed by a municipality directly or through a municipal contract with a private service provider or where a municipality directly or through a municipal contract with a service provider provides for collection, transportation, processing or marketing of covered materials from public spaces or operates a transfer station, the municipality may elect to: (1) Continue provision of service without reimbursement, (2) continue provision of service for a reimbursement at a reasonable rate from a responsible party or stewardship organization authorized to operate and administer a program pursuant to this section, or (3) if a municipality does not elect to provide service, a responsible party or stewardship organization authorized to operate and administer a
stewardship program pursuant to this section shall be responsible for contracting with a private service provider for services and shall be responsible for calculating and dispersing funding at a reasonable rate for collection, transportation, processing and marketing by said private service provider.

(cc) In the event that another state implements a stewardship program for covered materials, or similar materials, a stewardship organization authorized pursuant to this section may collaborate across states to conserve efforts and resources used in carrying out a packaging stewardship program, provided such collaboration is consistent with the requirements of this section.

(dd) Packaging stewardship program costs shall not include covered materials collected and managed through a municipal solid waste disposal program but shall include materials collected and disposed from a facility processing covered materials for recycling. Any stewardship organization may establish standards for collection, processing and marketing of covered materials, whether pursuant to a contract or agreement with a municipality or service provider.

(ee) Any person who violates any provision of this section shall be assessed a civil penalty not to exceed twenty-five thousand dollars, to be fixed by the Superior Court, for each offense. Each violation shall be a separate and distinct offense and, in the case of a continuing violation, each day's continuance of such violation shall be deemed to be a separate and distinct offense. The Attorney General, upon request of the Commissioner of Energy and Environmental Protection, shall institute a civil action in the superior court for the judicial district of Hartford to recover such penalty.

(ff) Whenever, in the judgment of the Commissioner of Energy and Environmental Protection, any person has engaged in or is about to engage in any act, practice or omission that constitutes, or will constitute, a violation of any provision of this section, the Attorney General may, at the request of the commissioner, bring an action in the
superior court for the judicial district of Hartford to enjoin such act, practice or omission and to seek an order of appropriate remedial measures. Upon a showing by the commissioner that such person has engaged in or is about to engage in such act, practice or omission, the court may issue an order mandating compliance with the provisions of this section, a permanent or temporary injunction, a restraining order or other order, as appropriate.

(gg) If two or more persons are responsible for a violation of the provisions of this section, such persons shall be jointly and severally liable under this section.

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

(ii) Upon the effective date of a covered material's stewardship program, the state intends to occupy the field of regulation for such covered material's stewardship program consistent with the provisions of this section. A local government may not adopt an ordinance establishing, requiring the establishment of or otherwise regulating stewardship programs for covered materials and, from the effective date of such program, any ordinance or regulation that violates the provisions of this subsection shall be void and has no force or effect.

(jj) Nothing in this section shall be construed to impact an entity's eligibility for any state or local incentive or assistance program to which such entity is otherwise eligible.

(kk) The Department of Energy and Environmental Protection may opt into a regional or national collaborative, in lieu of the requirements in this section, if the regional or national program addresses the same or similar covered materials and purpose of this section.

(ll) At such time as an enforceable federal covered materials stewardship program is implemented, not later than one hundred eighty days after the effective date of such federal program, the
Department of Energy and Environmental Protection shall determine the applicability of such federal program with the requirements of this section and may adopt participation in such federal program, in lieu of the requirements of this section if the federal program addresses the same or similar covered materials and purpose of this section.

(mm) No registered stewardship organization shall create any unreasonable barrier for participation by responsible parties in such stewardship organization.

(nn) Nothing in this act shall be construed to prohibit a person who is not a responsible party from voluntarily participating in a stewardship organization provided such person complies with all requirements of this section.

(oo) The Department of Energy and Environmental Protection may suspend or revoke a responsible party or stewardship organization's approved plan if the department determines that (1) a violation or repeated violations of this section occurred, or (2) such a violation had a material impact on the implementation and administration of the responsible party’s or stewardship organization's plan.

This act shall take effect as follows and shall amend the following sections:

| Section 1 | October 1, 2022 | New section |

**Statement of Purpose:**
To establish a stewardship program for the collection and recycling of consumer packaging.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]