

CHAPTER 289

HEALTH AND ENVIRONMENT

SENATE BILL 20-055

BY SENATOR(S) Priola and Story, Danielson, Fenberg, Foote, Gonzales, Hansen, Lee, Moreno, Pettersen, Todd, Williams A., Winter, Garcia;
also REPRESENTATIVE(S) Cutter and Arndt, Bird, Buckner, Caraveo, Coleman, Duran, Esgar, Exum, Froelich, Jackson, Jaquez Lewis, Kennedy, Kipp, Lontine, McLachlan, Melton, Michaelson Jenet, Singer, Sirota, Snyder, Titone, Valdez A., Weissman, Becker.

AN ACT

CONCERNING THE EXPANSION OF MARKET MECHANISMS FOR THE FURTHER DEVELOPMENT OF RECYCLING, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add 25-16.5-112 and 25-16.5-113** as follows:

25-16.5-112. Recycling market development center - definitions - repeal.

(1) THE DEPARTMENT SHALL CONVENE STAKEHOLDERS TO INFORM THE DEPARTMENT REGARDING A STRUCTURE AND GOVERNING GUIDANCE FOR A RECYCLING MARKET DEVELOPMENT CENTER, REFERRED TO IN THIS SECTION AS THE "CENTER", TO SUPPORT THE DEVELOPMENT OF END-MARKET BUSINESSES WITHIN THE STATE BY ACHIEVING THE GOALS OF THE CENTER AS SPECIFIED IN SUBSECTION (3) OF THIS SECTION. IN CONVENING STAKEHOLDERS, THE DEPARTMENT SHALL INCLUDE A BROAD RANGE OF EXPERTISE, INCLUDING:

(a) INSTITUTIONS OF HIGHER EDUCATION;

(b) EXPERTS IN RECYCLING VARIOUS TYPES OF MATERIALS INCLUDING CONSTRUCTION AND DEMOLITION WASTE, ORGANICS, TEXTILES, ELECTRONICS, PLASTICS, FIBER, GLASS, ALUMINUM, AND METALS;

(c) WASTE HAULERS;

(d) MATERIAL RECOVERY FACILITY OPERATORS;

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(e) BROKERS; AND

(f) OTHERS.

(2) THE DEPARTMENT, IN COLLABORATION WITH THE STAKEHOLDERS, SHALL:

(a) REVIEW WHAT OTHER STATES HAVE DONE TO CREATE RECYCLING MARKET DEVELOPMENT CENTERS;

(b) EXPLORE FUNDING OPPORTUNITIES FOR THE CENTER, BOTH PRIVATE AND PUBLIC; AND

(c) REPORT TO THE GENERAL ASSEMBLY'S COMMITTEES WITH JURISDICTION OVER SOLID WASTE AND RECYCLING ON THE RECOMMENDED STRUCTURE, STAKEHOLDER ENGAGEMENT POLICIES, AND CENTER GOVERNING GUIDANCE BY JULY 1, 2021.

(3) THE GOALS OF THE CENTER ARE TO ASSIST EXISTING AND NEW END-MARKET RECYCLING BUSINESSES THAT PROCESS OR REUSE RECYCLABLE MATERIALS INTO NEW PRODUCTS SOLD OR OTHERWISE FURNISHED TO END USERS BY:

(a) EVALUATING THE SHORT- AND LONG-TERM CAPACITY OF EXISTING MARKETS TO USE THE CURRENT AND FUTURE QUANTITIES OF RECYCLABLE MATERIALS AND OPPORTUNITIES TO EXPAND EXISTING MARKETS;

(b) IDENTIFYING POTENTIAL END-MARKET BUSINESS TARGETS AND FEASIBLE INCENTIVES THAT THE STATE MAY OFFER TO BRING THESE BUSINESSES TO COLORADO;

(c) DEVELOPING A RECYCLABLE MATERIAL DATABASE TO IDENTIFY HOW MUCH RECYCLABLE MATERIAL IS AVAILABLE AND FROM WHAT SOURCES AND REGIONS;

(d) RECOMMENDING STATE AND LOCAL POLICIES TO INCREASE THE SUPPLY OF RECYCLABLE MATERIALS TO SUPPORT END-MARKET BUSINESSES;

(e) CONNECTING END-MARKET BUSINESSES WITH FUNDING ASSISTANCE INCLUDING GRANTS, LOANS, AND TAX BREAKS AVAILABLE THROUGH THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT CREATED IN SECTION 24-48.5-101, THE DEPARTMENT, AND OTHER SOURCES AND EXPANDING AND DIVERSIFYING THESE FUNDING SOURCES;

(f) PROVIDING MATERIAL-SPECIFIC RESEARCH AND BUSINESS DEVELOPMENT ASSISTANCE FOR NEW AND EXPANDED END-MARKET BUSINESSES TO CREATE AND EXPAND RECYCLING PROCESSING INFRASTRUCTURE;

(g) RECOMMENDING PUBLIC OUTREACH CAMPAIGNS, WHICH MAY BE MATERIAL-SPECIFIC, TO INCREASE THE SUPPLY AND QUALITY OF RECYCLABLE MATERIALS; AND

(h) INTEGRATING THE CENTER'S EFFORTS WITH THE STATE SOLID WASTE PLAN DEVELOPED PURSUANT TO SECTION 30-20-100.5 (1)(d)(II) AND THE CLIMATE ACTION PLAN DEVELOPED PURSUANT TO SECTION 24-20-111 (2)(a).

(4) AS USED IN THIS SECTION:

(a) "END-MARKET BUSINESS" MEANS A BUSINESS, OR A PORTION OF A BUSINESS, THAT PROCESSES RECYCLABLE MATERIALS OR REUSES RECYCLABLE MATERIALS IN NEW PRODUCTS SOLD OR OTHERWISE FURNISHED TO END USERS.

(b) "RECYCLABLE MATERIALS":

(I) MEANS ANY TYPE OF DISCARDED OR WASTE MATERIAL THAT IS NOT REGULATED UNDER SECTION 25-8-205 (1)(e) AND CAN BE REUSED, REMANUFACTURED, RECLAIMED, OR RECYCLED, INCLUDING COMPOSTABLE ORGANIC MATERIAL AND CONSTRUCTION AND DEMOLITION MATERIALS; AND

(II) DOES NOT INCLUDE INDUSTRIAL MATERIALS, PAINT, OR A WASTE TIRE AS DEFINED IN SECTION 30-20-1402 (12).

(5) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2022.

25-16.5-113. Producer responsibility literature review- report - repeal.

(1) THE DEPARTMENT SHALL CONDUCT A LITERATURE REVIEW OF WHAT INDUSTRY AND OTHER STATES ARE DOING AROUND THE COUNTRY REGARDING PRODUCER RESPONSIBILITY AND CREATE POLICY AND LEGISLATIVE RECOMMENDATIONS REGARDING THE FEASIBILITY OF REQUIRING PRODUCERS TO DESIGN, MANAGE, AND FINANCE PROGRAMS FOR END-OF-LIFE MANAGEMENT OF THEIR PRODUCTS AND PACKAGING, INCLUDING THE POTENTIAL IMPACT ON END MARKETS FOR THE MATERIALS, AS A CONDITION OF SALE.

(2) BY JULY 1, 2021, THE DEPARTMENT SHALL REPORT TO THE GENERAL ASSEMBLY'S COMMITTEES WITH JURISDICTION OVER SOLID WASTE REGARDING ITS POLICY AND LEGISLATIVE RECOMMENDATIONS BASED ON THE LITERATURE REVIEW.

(3) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2022.

SECTION 2. In Colorado Revised Statutes, 25-16.5-105, **add** (1)(n) as follows:

25-16.5-105. Powers and duties of advisory board - definitions. (1) The advisory board has the following powers and duties:

(n) (I) IN CONSULTATION WITH THE POLLUTION PREVENTION ADVISORY BOARD ASSISTANCE COMMITTEE CREATED IN SECTION 25-16.5-105.5 (2), TO DEVELOP A FORMULA FOR REIMBURSING A NEW OR EXISTING BUSINESS, OR A PORTION OF A BUSINESS, THAT RECLAIMS OR RECYCLES RECYCLABLE MATERIALS FOR LOCALLY ASSESSED PERSONAL PROPERTY TAXES THE BUSINESS PAID ON PERSONAL PROPERTY ASSOCIATED WITH NEW OR EXISTING WASTE DIVERSION OPERATIONS. THE REIMBURSEMENT FORMULA MUST EXCLUDE THE FIRST EIGHTEEN THOUSAND DOLLARS IN ACTUAL VALUE THAT IS OTHERWISE ELIGIBLE FOR THE INCOME CREDIT AUTHORIZED BY SECTION 39-22-537.5. THE ADVISORY BOARD MAY SET CRITERIA OR LIMITS FOR REIMBURSEMENT BUT NEED NOT ACTUALLY MAKE A REIMBURSEMENT. REIMBURSEMENTS ARE PAYABLE ONLY FROM THE FOLLOWING SOURCES:

(A) FOR AN ELIGIBLE RECYCLING BUSINESS THAT PAID LOCALLY ASSESSED

PERSONAL PROPERTY TAX ON PERSONAL PROPERTY LOCATED OUTSIDE THE FRONT RANGE, FROM MONEY APPROPRIATED TO THE RECYCLING RESOURCES ECONOMIC OPPORTUNITY FUND PURSUANT TO SECTION 25-16.5-106.5 (1)(a)(II); AND

(B) FOR AN ELIGIBLE RECYCLING BUSINESS THAT PAID LOCALLY ASSESSED PERSONAL PROPERTY TAX ON PERSONAL PROPERTY LOCATED IN THE FRONT RANGE, FROM MONEY IN THE FRONT RANGE WASTE DIVERSION CASH FUND PURSUANT TO SECTION 25-16.5-111 (4)(b)(IV).

(II) AS USED IN THIS SUBSECTION (1)(n):

(A) "FRONT RANGE" HAS THE MEANING SET FORTH IN SECTION 25-16.5-111 (2)(f).

(B) "RECYCLABLE MATERIALS" MEANS ANY TYPE OF DISCARDED OR WASTE MATERIAL THAT IS NOT REGULATED UNDER SECTION 25-8-205 (1)(e) AND CAN BE REUSED, REMANUFACTURED, RECLAIMED, OR RECYCLED, INCLUDING COMPOSTABLE ORGANIC MATERIAL AND CONSTRUCTION AND DEMOLITION MATERIALS. "RECYCLABLE MATERIALS" DOES NOT INCLUDE INDUSTRIAL MATERIALS, PAINT, OR A WASTE TIRE AS DEFINED IN SECTION 30-20-1402 (12).

SECTION 3. In Colorado Revised Statutes, 25-16.5-106.5, **amend** (1)(a) introductory portion, (1)(a)(II), and (2) as follows:

25-16.5-106.5. Recycling resources economic opportunity fund - creation - repeal. (1) (a) The recycling resources economic opportunity fund, ~~is hereby created in the state treasury~~, referred to in this section as the "fund", IS HEREBY CREATED IN THE STATE TREASURY. The fund ~~shall consist~~ CONSISTS OF:

(II) Any ~~moneys~~ MONEY appropriated to the fund by the general assembly, INCLUDING MONEY APPROPRIATED FOR PERSONAL PROPERTY TAX REIMBURSEMENTS FOR ELIGIBLE RECYCLING BUSINESSES PURSUANT TO SECTION 25-16.5-105 (1)(n); and

(2) ~~Any moneys~~ THE MONEY generated pursuant to subsection (1) of this section shall be annually appropriated to the department: ~~for allocation to the advisory board~~

(a) For the purpose of funding the recycling resources economic opportunity activities authorized by section 25-16.5-106.7, as well as any administrative costs associated therewith, including ~~without limitation~~ the grants authorized to be made under section 25-16.5-106.7 (3) and grant program oversight authorized by section 25-16.5-105.5 (3); AND

(b) ~~Such moneys may also be used~~ To fund studies pursuant to ~~section~~ SECTIONS 25-16.5-105 (1)(i), 25-16.5-112 (2), AND 25-16.5-113, TO MAKE REIMBURSEMENTS PURSUANT TO SECTION 25-16.5-106.7 (6.5), AND TO FINANCE THE STATEWIDE CAMPAIGN DESCRIBED IN SECTION 25-17-108.

SECTION 4. In Colorado Revised Statutes, 25-16.5-106.7, **add** (6.5) as follows:

25-16.5-106.7. Recycling resources economic opportunity program - grants - definitions - repeal. (6.5) (a) IN ADDITION TO AWARDING GRANTS PURSUANT TO

SUBSECTION (4) OF THIS SECTION, THE ADVISORY BOARD MAY USE MONEY IN THE FUND TO REIMBURSE, IN ACCORDANCE WITH SECTION 25-16.5-105 (1)(n), ELIGIBLE RECYCLING BUSINESSES FOR LOCALLY ASSESSED PERSONAL PROPERTY TAXES PAID IN THE CURRENT TAX YEAR IN THIS STATE ON PERSONAL PROPERTY THAT IS LOCATED OUTSIDE THE FRONT RANGE, AS DEFINED IN SECTION 25-16.5-111 (2)(f).

(b) A PERSON THAT APPLIES FOR REIMBURSEMENT PURSUANT TO THIS SUBSECTION (6.5) MUST INFORM THE ADVISORY BOARD, IN A FORM AND MANNER SPECIFIED BY THE ADVISORY BOARD, OF THE TYPE OF BUSINESS PERSONAL PROPERTY THAT WAS SUBJECT TO THE TAXES AND HOW THE PROPERTY WILL HELP DEVELOP RECYCLING MARKETS.

SECTION 5. In Colorado Revised Statutes, 25-16.5-111, **amend** (4)(b)(II) and (4)(b)(III); and **add** (4)(b)(IV) as follows:

25-16.5-111. Front range waste diversion enterprise - legislative declaration - fund - goals - grant program - personal property tax reimbursements - gifts, grants, or donations - definitions - repeal. (4) **Fund.** (b) Money in the fund is continuously appropriated to the enterprise to:

(II) Award grants in accordance with this section; **and**

(III) Provide technical assistance to eligible entities to promote diversion, including through the development and implementation of policy; AND

(IV) (A) REIMBURSE, AT THE BOARD'S DISCRETION, ELIGIBLE RECYCLING BUSINESSES FOR LOCALLY ASSESSED PERSONAL PROPERTY TAXES PAID IN THE CURRENT TAX YEAR IN THIS STATE ON PERSONAL PROPERTY THAT IS LOCATED IN THE FRONT RANGE. THE FIRST EIGHTEEN THOUSAND DOLLARS IN ACTUAL VALUE THAT IS OTHERWISE ELIGIBLE FOR THE INCOME CREDIT AUTHORIZED BY SECTION 39-22-537.5 IS NOT ELIGIBLE FOR REIMBURSEMENT.

(B) A PERSON THAT APPLIES FOR REIMBURSEMENT PURSUANT TO THIS SUBSECTION (4)(b)(IV) MUST INFORM THE ENTERPRISE, IN A FORM AND MANNER SPECIFIED BY THE ENTERPRISE, OF THE TYPE OF BUSINESS PERSONAL PROPERTY THAT WAS SUBJECT TO THE TAXES AND HOW THE PROPERTY WILL HELP DEVELOP RECYCLING MARKETS.

SECTION 6. In Colorado Revised Statutes, **add** 25-17-108 as follows:

25-17-108. Statewide education campaign concerning recycling - repeal.

(1) AS SOON AS PRACTICABLE, THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, REFERRED TO IN THIS SECTION AS THE "DEPARTMENT", SHALL ADMINISTER A STATEWIDE CAMPAIGN TO EDUCATE COLORADO RESIDENTS CONCERNING RECYCLING. THE OBJECTIVES OF THE STATEWIDE CAMPAIGN ARE TO:

(a) INCREASE RECYCLING AMONG RESIDENTS; AND

(b) EDUCATE RESIDENTS ABOUT SPECIFIC RECYCLABLE MATERIALS AND SPECIFIC RECYCLING HABITS THAT CAN INCREASE THE EFFICIENCY OF RECYCLING EFFORTS IN COLORADO.

(2) THE DEPARTMENT SHALL ENSURE THE STATEWIDE CAMPAIGN INCLUDES:

(a) COMMUNICATIONS DELIVERED VIA SOCIAL MEDIA;

(b) TELEVISION AND RADIO PUBLIC SERVICE ANNOUNCEMENTS; AND

(c) THE PLACEMENT OF WRITTEN MATERIALS IN PUBLIC LOCATIONS, SUCH AS COMMUNITY CENTERS, RECREATION CENTERS, AND SHOPPING CENTERS.

(3) IN ADMINISTERING THE STATEWIDE CAMPAIGN DESCRIBED IN SUBSECTION (1) OF THIS SECTION, THE DEPARTMENT SHALL CONSULT WITH MUNICIPAL GOVERNMENTS, COUNTY GOVERNMENTS, AND PRIVATE AGENCIES THAT OPERATE RECYCLING PROGRAMS.

(4) THE DEPARTMENT MAY CONTRACT WITH ONE OR MORE PUBLIC OR PRIVATE ENTITIES FOR THE PREPARATION OF MATERIALS TO BE USED IN THE STATEWIDE CAMPAIGN DESCRIBED IN SUBSECTION (1) OF THIS SECTION.

(5) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2021.

SECTION 7. Appropriation. For the 2020-21 state fiscal year, \$985,283 is appropriated to the department of public health and environment for use by the division of environmental health and sustainability. This appropriation is from the recycling resources economic opportunity fund created in section 25-16.5-106.5 (1)(a), C.R.S., and is based on an assumption that the division will require an additional 2.1 FTE. To implement this act, the division may use this appropriation for the recycling resources economic opportunity program.

SECTION 8. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to conduct occurring on or after the applicable effective date of this act.

Approved: July 13, 2020