

AMENDED IN SENATE APRIL 7, 2025

AMENDED IN SENATE MARCH 24, 2025

SENATE BILL

No. 501

Introduced by Senator Allen

February 19, 2025

An act to add Article 10.8.5 (commencing with Section 25218.50) to Chapter 6.5 of Division 20 of the Health and Safety Code, relating to hazardous materials.

LEGISLATIVE COUNSEL'S DIGEST

SB 501, as amended, Allen. Household Hazardous Waste Producer Responsibility Act.

(1) Under existing law, as part of the hazardous waste control laws, the Department of Toxic Substances Control (DTSC) generally regulates the management and handling of hazardous waste and hazardous materials. Existing law authorizes a public agency, as defined, to operate a household hazardous waste collection facility under permit from DTSC.

Existing law, the Plastic Pollution Prevention and Packaging Producer Responsibility Act, establishes a producer responsibility program designed to ensure that producers of single-use packaging and food service ware covered by that program take responsibility for the costs associated with the end-of-life management of that material and ensure that the material is recyclable or compostable.

This bill would create a producer responsibility program for products containing household hazardous waste and would require a producer responsibility organization (PRO) to ensure the safe and convenient collection and management of covered products at no cost to consumers or local governments. The bill would define "covered product" to mean

a consumer product that is ignitable, toxic, corrosive, or reactive, or that meets other specified ~~criteria~~: *criteria, except as specified*. The bill would require a producer of a covered product to register with the PRO, which would be required to develop and implement a producer responsibility plan for the collection, transportation, and the safe and proper management of covered products. The bill would require DTSC to adopt regulations to implement the program with an effective date no earlier than July 1, 2028.

~~The~~

This bill would require the PRO, within 12 months of the effective date of the regulations, to submit a producer responsibility plan to DTSC. The bill would require the plan to include specified elements, including a funding mechanism to fully fund the PRO and the program. The bill would require, within 6 months of receipt of the plan, DTSC to approve, approve in part, or disapprove the plan, as specified. The bill would require DTSC to notify the PRO of its decision. If DTSC does not approve the plan in full, then the bill would require DTSC to specify the reasons for disapproval or identify the portions of the partially approved plan that do not comply with the program, as applicable. The bill would require the PRO to submit a revised plan if its plan is not fully approved. The bill would conditionally approve a plan if DTSC does not approve, approve in part, or disapprove a plan within one year of receipt of the plan.

~~The~~

This bill would require the PRO to implement its plan within 90 days of approval. The bill would require the plan to be fully funded in a manner that equitably distributes the plan's costs among participant producers, as specified. The bill would require the PRO to reimburse local jurisdictions for costs associated with collecting illegally dumped covered products and for providing a convenient collection system for covered products if the PRO's plan relies on local jurisdictions to collect or manage covered products.

~~The~~

This bill would require the PRO to prepare and submit to DTSC an annual report describing the activities carried out pursuant to the plan. The bill would require the PRO to retain specified documents, annually audit its accounting books, and make documents available to DTSC for review, as specified. The bill would require all reports and records provided to DTSC pursuant to the program to be provided under penalty

of perjury. By expanding the scope of a crime, the bill would impose a state-mandated local program.

~~The~~

This bill would require a participant producer, through the PRO, to pay DTSC, on an unspecified schedule, an annual administrative charge, as determined by DTSC. The bill would require the charge be set at an amount that is adequate to cover DTSC's full costs of administering and enforcing the program. The bill would provide for the imposition of administrative civil penalties on producers and other specified persons who violate the program. The bill would establish the Household Hazardous Waste Producer Responsibility Fund in the State Treasury and would require the administrative charges collected by DTSC to be deposited into that fund for expenditure by DTSC, upon appropriation by the Legislature, to cover DTSC's cost to implement the program. The bill would also establish the Household Hazardous Waste Products Penalty Account in the Household Hazardous Waste Producer Responsibility Fund and would require that the civil penalties collected by DTSC pursuant to the program be deposited into that account, for expenditure by DTSC, upon appropriation by the Legislature, for activities related to the collection, reuse, and recycling of covered products, grants for related purposes, and the administration and enforcement of the program.

This bill would require the PRO to prepare an initial statewide needs assessment designed to determine the necessary steps and investments needed for covered products to achieve the requirements and purposes of the program, as specified. The bill would provide that certain actions of the PRO or a producer are not violations of the Cartwright Act or certain provisions regulating unfair business practices or unfair competition.

(2) Existing law established the Department of Resources Recycling and Recovery (CalRecycle) to, among other things, promote waste management in the order of source reduction, then recycling and composting, and then environmentally safe transformation and environmentally safe land disposal, as provided. Pursuant to that authority, CalRecycle publishes various waste characterization studies.

This bill would require CalRecycle, in support of the program, to include in updates to the applicable waste characterization study the amount of covered products that were properly and improperly disposed of, as specified.

(3) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Thousands of household products that are sold in the state
4 contain substances designated as hazardous under state or federal
5 law.

6 (b) Leftover household products, known as household hazardous
7 waste, are regulated through a requirement that municipal solid
8 waste management entities include provisions in solid waste
9 implementation plans for the management and diversion of
10 unregulated hazardous waste.

11 (c) California's hazardous waste laws and regulations establish
12 specific requirements for the management of hazardous waste,
13 including a prohibition on disposal in landfills.

14 (d) The Department of Resources Recycling and Recovery has
15 supported the construction of household hazardous waste facilities
16 and management by offering household hazardous waste grants
17 to local governments, and those grants are currently limited to
18 \$1,500,000 annually when a single facility, such as the one in
19 progress in the County of Sonoma, will cost between \$13,000,000
20 and \$16,000,000.

21 (e) California already has extended producer responsibility
22 programs for some household hazardous waste products, including
23 mercury thermostats, pharmaceuticals, sharps and needles, and
24 paint products.

1 (f) The Statewide Commission on Recycling Markets and
2 Curbside Recycling convened from July 2020 to June 2022, and
3 its first recommendation was to create a household hazardous waste
4 extended producer responsibility program.

5 (g) According to the Department of Toxic Substances Control’s
6 Hazardous Waste Management Report, released November 2023,
7 “The previous waste reduction efforts were discontinued because
8 they did not produce reductions large enough to be seen as
9 effective.”

10 (h) The cost of managing household hazardous waste for local
11 government ratepayers is extremely high and yet proper disposal
12 is still inconvenient for the public. Extended producer responsibility
13 is used for a wide variety of household hazardous waste products
14 in Canada and other countries for products like antifreeze,
15 pesticides, flammables, radioactive smoke alarms, lighting, and
16 others.

17 (i) To reduce improper disposal of household hazardous waste,
18 reduce the financial burden on local jurisdictions and taxpayers,
19 reduce the cost of the overall system of managing household
20 hazardous waste, improve the convenience of proper disposal to
21 the public, and lessen the environmental and public health risks
22 posed by improperly disposed household hazardous waste, the
23 state shall implement a program to require the manufacturers of
24 household hazardous waste products to create a producer
25 responsibility organization to improve collection and to cover the
26 costs of managing household hazardous waste.

27 SEC. 2. Article 10.8.5 (commencing with Section 25218.50)
28 is added to Chapter 6.5 of Division 20 of the Health and Safety
29 Code, to read:

30
31 Article 10.8.5. Household Hazardous Waste Producer
32 Responsibility Act
33

34 25218.50. (a) This article shall be known, and may be cited,
35 as the Household Hazardous Waste Producer Responsibility Act.

36 (b) The purpose of this article is to provide for the safe and
37 proper management of household hazardous waste, which poses
38 a threat to public health and safety, is costly for California’s local
39 governments, and may cause significant damage to the environment
40 when managed improperly.

1 25218.51. For purposes of this article, the following definitions
2 apply:

3 (a) (1) “Approved plan” means a producer responsibility plan
4 that has been approved by the department pursuant to Section
5 25218.55 and that has not been revoked by the department pursuant
6 to Section 25218.68.

7 (2) A conditionally approved plan is an approved plan, except
8 as used in Section 25218.55.

9 (3) A partially approved plan is not an approved plan.

10 (b) “Brand” means a name, symbol, word, or mark that identifies
11 a covered product rather than its components, and attributes the
12 covered product to the owner or licensee of the brand as the
13 producer.

14 (c) “Consumer” means a purchaser, owner, or lessee of a covered
15 product, including a person, business, corporation, limited
16 partnership, nonprofit organization, or governmental entity.

17 (d) “Consumer product” means a commodity that is intended
18 for use for personal, family, or household purposes, or that is
19 present in the same form, concentration, and quantity as a product
20 prepackaged for distribution to a consumer for personal, family,
21 or household purposes, and is handled at, and found in, a retail
22 establishment and intended for direct sale to the end user.

23 (e) “Contact information” means a name, physical address,
24 mailing address, email address, and telephone number.

25 (f) (1) “Covered product” means a consumer product that is
26 one or more of the following:

27 (A) A pesticide, as defined in Section 12753 of the Food and
28 Agricultural Code.

29 (B) An aerosol.

30 (C) An oxidizer.

31 (D) An ~~adhesive, glue, cleaner, degreaser, or solvent, which~~
32 *adhesive or glue, which is ignitable, toxic, corrosive, or reactive.*

33 (E) *A designated product, as defined in Section 108952, which*
34 *is ignitable, toxic, or reactive.*

35 ~~(E) A~~

36 (F) *An automotive product that is a lubricant, oil, antifreeze,*
37 *cleaner, wax, or degreaser, which is an automotive product used*
38 *for purposes of maintaining the function of a motor vehicle, as*
39 *defined in Section 670 of the Vehicle Code.*

40 ~~(F)~~

- 1 (G) A compressed gas, including, but not limited to, propane,
- 2 helium, and oxygen.
- 3 ~~(G)~~
- 4 (H) A lithium battery.
- 5 ~~(H)~~
- 6 (I) A product containing asbestos, mercury, or polychlorinated
- 7 biphenyls.
- 8 ~~(I)~~
- 9 (J) An electronic delivery system of a nicotine or non-nicotine
- 10 aerosolized or vaporized solution to a person, including electronic
- 11 cigarettes and vape pens.
- 12 ~~(J)~~
- 13 (K) A product that is ignitable, toxic, corrosive, or reactive, that
- 14 is added by the department via the assessment described in
- 15 subdivision (d) of Section 25218.52, and that is not exempted.
- 16 (2) “Covered product” does not include any of the following:
- 17 (A) A product subject to another statewide stewardship or
- 18 advanced disposal fee-based program for collection or management
- 19 pursuant to state law.
- 20 ~~(B) A health and beauty product.~~
- 21 (B) *Cosmetics, drugs, or food.*
- 22 (C) *Personal care items, including, but not limited to, hand*
- 23 *soap, shampoo, or toothpaste.*
- 24 ~~(C)~~
- 25 (D) A product otherwise listed in paragraph (1) for which the
- 26 producer demonstrates to the department that the product meets
- 27 both of the following criteria:
- 28 (i) The product is not ignitable, toxic, corrosive, or reactive.
- 29 (ii) The product may safely be collected through a residential
- 30 recycling collection service, residential organic waste collection,
- 31 or residential solid waste collection.
- 32 ~~(D)~~
- 33 (E) A parasiticide used to treat, or administered to, companion
- 34 animals and that is regulated by the United States Environmental
- 35 Protection Agency under the Federal Insecticide, Fungicide, and
- 36 Rodenticide Act (7 U.S.C. Sec. 136 et seq.).
- 37 (F) *A product subject to alternative management standards*
- 38 *pursuant to Article 11.2 (commencing with Section 25230).*
- 39 (g) “Department” means the Department of Toxic Substances
- 40 Control.

1 (h) “Importer” means either of the following:

2 (1) A person qualifying as an importer of record for purposes
3 of Section 1484(a)(2)(B) of Title 19 of the United States Code
4 with regard to the import of a covered product that is sold,
5 distributed for sale, or offered for sale in or into the state that was
6 manufactured or assembled by a company outside of the United
7 States.

8 (2) A person importing into the state for sale, distributing for
9 sale, or offering for sale in the state a covered product that was
10 manufactured or assembled by a company physically located
11 outside of the state.

12 (i) “Participant producer” means a producer that is registered
13 with the producer responsibility organization.

14 (j) (1) “Producer” means a person who manufactures a covered
15 product and who sells, offers for sale, or distributes a covered
16 product into the state under the person’s own name or brand.

17 (2) If there is no person in the state who is the producer for
18 purposes of paragraph (1), the producer of the covered product is
19 the owner or exclusive licensee of a brand under which the covered
20 product is sold or distributed into the state. For purposes of this
21 subdivision, an exclusive licensee is a person holding the exclusive
22 right to use a brand in the state in connection with the manufacture,
23 sale, or distribution for sale in or into the state of the covered
24 product.

25 (3) If there is no person in the state who is the producer for
26 purposes of paragraph (1) or (2), the producer of the covered
27 product is the person that imports the covered product into the
28 state for sale, distribution, or installation.

29 (4) If there is no person in the state who is the producer for
30 purposes of paragraph (1), (2), or (3), the producer of the covered
31 product is the distributor, retailer, dealer, or wholesaler who sells
32 the product in or into the state.

33 (5) For purposes of this article, the sale of a covered product
34 shall be deemed to occur in the state if the covered product is
35 delivered to the consumer in the state.

36 (k) “Producer responsibility organization” means an organization
37 that is exempt from taxation under Section 501(c)(3) of the federal
38 Internal Revenue Code of 1986, is formed for the purpose of
39 implementing a plan to meet the requirements of this article, and
40 is approved by the ~~department~~ *department*.

1 (l) “Producer responsibility plan” means the plan developed by
2 a producer responsibility organization for the collection,
3 transportation, and the safe and proper management of covered
4 products pursuant to this article and submitted to the department
5 for approval pursuant to Section 25218.55.

6 (m) “Sell” or “sales” has the same meaning as set forth in
7 Section 6006 of the Revenue and Taxation Code.

8 25218.52. (a) (1) Except as provided in Section 25218.55,
9 the department shall adopt, amend, or repeal regulations to
10 implement this article, in accordance with the Administrative
11 Procedure Act (Chapter 3.5 (commencing with Section 11340) of
12 Part 1 of Division 3 of Title 2 of the Government Code). The
13 department shall not adopt regulations pursuant to this section with
14 an effective date earlier than July 1, 2028.

15 (2) As part of the regulations described in this section, the
16 department shall establish a baseline amount of covered products
17 improperly disposed of and shall measure progress towards meeting
18 the performance-based standards in Section 25218.56.

19 (b) On or before January 1, 2027, the department shall establish
20 and post on its internet website a list of covered product categories.

21 (c) On or before January 1, 2028, the department shall approve
22 one, and only one, producer responsibility organization that meets
23 the requirements of this article.

24 (d) On or before January 1, 2032, and every five years after, the
25 department may conduct an assessment to identify household
26 hazardous waste that is not included in the producer responsibility
27 plan and adjust the covered product categories, if needed, to
28 achieve the purpose of this article. The department may select an
29 independent third-party contractor to complete the assessment.
30 The department shall make its determination and rationale available
31 for public review.

32 25218.53. (a) No later than 90 days after the department’s
33 approval of the producer responsibility organization, pursuant to
34 Section 25218.52, a producer shall register with the producer
35 responsibility organization in accordance with the procedures and
36 requirements established by the producer responsibility
37 organization.

38 (b) No later than 30 days after the effective date of the
39 regulations described in Section 25218.52, a producer, or the
40 producer responsibility organization on behalf of the producer,

1 shall notify the department electronically that the producer has
2 registered with the producer responsibility organization.

3 (c) Upon approval of a producer responsibility plan pursuant to
4 Section 25218.55, a producer shall not sell, offer for sale, import,
5 or distribute a covered product in the state unless all of the
6 following conditions are met:

7 (1) The producer is registered with the producer responsibility
8 organization.

9 (2) The covered product is accounted for in the producer
10 responsibility plan.

11 (3) The department has approved the producer responsibility
12 plan.

13 (d) If an entity does not meet the definition of a producer and
14 is not subject to this article but, at any point, meets the definition
15 of a producer, that entity shall be deemed a producer at that point
16 in time, and shall register with the producer responsibility
17 organization and otherwise comply with the requirements of this
18 article before beginning to sell, offer for sale, import, or distribute
19 a covered product in the state.

20 (e) (1) No later than 180 days after the effective date of the
21 regulations described in Section 25218.52, a producer shall provide
22 to the department, in a form and manner established by the
23 department, both of the following:

24 (A) The producer's contact information.

25 (B) A list of covered products and brands of covered products
26 that the producer sells, distributes for sale, imports for sale, or
27 offers for sale in or into the state.

28 (2) A producer shall provide to the department updates to the
29 information described in paragraph (1) on or before January 15 of
30 each year, within 30 days of changes to the contact information
31 or list, and upon the department's request.

32 25218.54. (a) The producer responsibility organization shall
33 have a governing board consisting of participant producers that
34 represent the diversity of covered products.

35 (b) The producer responsibility organization shall notify the
36 department within 30 calendar days of any of the following:

37 (1) The end of a three-month period during which the producer
38 responsibility organization unsuccessfully attempted to obtain a
39 fee, records, or information from a participant producer.

1 (2) The date that a producer no longer participates in the
2 producer responsibility organization’s approved plan.

3 (3) Any instance of noncompliance by a participant producer.

4 ~~(e) The producer responsibility organization may conduct a
5 needs assessment to determine appropriate strategies and
6 investments needed to meet the requirements of this article.~~

7 *(c) The producer responsibility organization shall coordinate
8 with a PRO, as that term is defined in Section 42041 of the Public
9 Resources Code, to ensure that empty packaging and containers
10 for covered products are properly collected and managed either
11 pursuant to this chapter or pursuant to Chapter 3 (commencing
12 with Section 42040) of Part 3 of Division 30 of the Public
13 Resources Code.*

14 *(d) (1) The producer responsibility organization shall prepare
15 an initial statewide needs assessment designed to determine the
16 necessary steps and investments needed for covered products to
17 achieve the requirements and purposes of this article. The initial
18 needs assessment for covered products shall be completed before
19 the approval of any producer responsibility plan. The producer
20 responsibility organization may select an independent third-party
21 contractor to complete the statewide needs assessment.*

22 *(2) The producer responsibility organization may prepare more
23 than one needs assessment, with each assessment specific to one
24 or more covered product categories subject to this article, or may
25 prepare one comprehensive needs assessment that includes all
26 covered products subject to this article.*

27 *(3) The producer responsibility organization shall consult local
28 jurisdictions and other key stakeholders when preparing the needs
29 assessment.*

30 *(4) The initial statewide needs assessment shall include all of
31 the following:*

32 *(A) An evaluation of the existing scope and amount of covered
33 products, by covered product category and volume, that are
34 improperly disposed of, properly disposed of through household
35 hazardous waste facilities, and diverted, as applicable, through
36 reuse or recycling, based on data from any existing waste
37 characterization studies conducted by the Department of Resources
38 Recycling and Recovery and including any other data the producer
39 responsibility organization chooses to include.*

1 (B) An evaluation of the categories of covered product that
2 contribute to the highest disposal costs.

3 (C) The current reuse, recycling, collection, sorting, and hauling
4 systems in the state and the expanded access and additional reuse,
5 recycling, collection, sorting, and hauling options needed to meet
6 the purposes of this article.

7 (D) The current processes by which containers and packaging
8 for covered products are handled under Chapter 3 (commencing
9 with Section 42040) of Part 3 of Division 30 of the Public
10 Resources Code.

11 (E) Existing state statutory provisions and funding sources
12 related to market development and financial incentives to help
13 achieve the state's goals related to reuse, recycling, collection,
14 sorting, hauling, and disposal in state using best management
15 practices.

16 (F) Actions and investments necessary, including, but not limited
17 to, incentive mechanisms, to achieve the purposes of this article.

18 (G) Actions and investments needed to avoid contamination
19 related to reuse and recycling.

20 (H) Whether allowing more than one producer responsibility
21 organization would be beneficial in meeting the requirements of
22 the article.

23 (I) An evaluation of the factors that will be important to
24 successfully implement the malus fees and credits described in
25 Section 25218.58.

26 (J) An evaluation and establishment of appropriate interim
27 targets for the reduction of improper disposal to achieve the
28 purposes of this article.

29 25218.55. (a) Within 12 months of the effective date of the
30 regulations described in Section 25218.52, the producer
31 responsibility organization shall develop and submit a proposed
32 producer responsibility plan to the department, in a form and
33 manner determined by the department.

34 (b) Within six months of receipt of a proposed producer
35 responsibility plan, the department shall approve, approve in part,
36 or disapprove the producer responsibility plan.

37 (c) If the department approves a proposed producer
38 responsibility plan, a revised plan, or a conditionally approved
39 plan, then the department shall notify the producer responsibility
40 organization of the approval. The producer responsibility

1 organization shall implement the approved or conditionally
2 approved plan within 90 days of receipt of the notice of approval,
3 or as otherwise agreed to by the department.

4 (d) If the department disapproves a proposed producer
5 responsibility plan or a revised plan, then the department shall
6 notify the producer responsibility organization of the disapproval
7 and specify the reasons for disapproval. Within 30 days of receipt
8 of the notice of disapproval, the producer responsibility
9 organization shall submit a revised plan.

10 (e) (1) If the department approves a proposed producer
11 responsibility plan or a revised plan in part, then the department
12 shall notify the producer responsibility organization of the partial
13 approval and identify the portions of the producer responsibility
14 plan that do not comply with this article.

15 (2) Within 30 days of receipt of the notice of partial approval,
16 the producer responsibility organization shall submit a revised
17 plan to the department.

18 (3) The producer responsibility organization shall implement
19 the approved parts of the producer responsibility plan within 90
20 days of receipt of the notice of partial approval, or as otherwise
21 agreed to by the department.

22 (f) Within 30 days of receipt of a revised plan, the department
23 shall approve, approve in part, or disapprove the revised plan.

24 (g) If the department has not approved, approved in part, or
25 disapproved a producer responsibility plan within one year of
26 receipt of the producer responsibility plan, then the producer
27 responsibility plan shall be deemed conditionally approved and
28 the department shall notify the producer responsibility organization
29 of the conditional approval within 30 days.

30 (h) The department may impose additional requirements for
31 any portion of a proposed producer responsibility plan, a revised
32 plan, or a conditionally approved plan that does not comply with
33 this article and that has not been approved.

34 (i) When reviewing a proposed producer responsibility plan, a
35 revised plan, or a conditionally approved plan, the department may
36 solicit information from producers, other agencies or departments,
37 or stakeholders, as the department deems appropriate.

38 (j) The department may review an approved plan or a
39 conditionally approved plan at any time. If the department finds

1 that an approved plan or a conditionally approved plan does not
2 comply with this article, then it may recommend modifications.

3 (k) Any substantial changes to an approved plan shall be
4 submitted to the department for approval.

5 (l) (1) An approved plan and a conditionally approved plan
6 shall be a public record, except that financial, production, or sales
7 data reported by the producer responsibility organization to the
8 department is not a public record for purposes of the California
9 Public Records Act (Division 10 (commencing with Section
10 7920.000) of Title 1 of the Government Code) and shall not be
11 open to public inspection. The department may release financial
12 or sales data in summary form only so the information cannot be
13 attributable to a specific entity.

14 (2) The producer responsibility organization may submit to the
15 department a redacted version of the approved plan or conditionally
16 approved plan that removes any proprietary or confidential
17 information.

18 (3) Within 90 days of approval, conditional approval, or revision
19 of a producer responsibility plan, the department shall post on its
20 internet website the producer responsibility plan and a list of all
21 the participant producers covered by the producer responsibility
22 plan.

23 25218.56. A producer responsibility plan shall meet all of the
24 following criteria:

25 (a) Be designed to ensure the safe and convenient collection
26 and management of covered products at no cost to consumers or
27 local governments.

28 (b) Describe the methods of collection to ensure convenience
29 to customers, including permanent collection sites, temporary
30 collection sites, curbside collection, and collection events.

31 (c) Include as a permanent collection site a local household
32 hazardous waste collection facility, as defined in subdivision (h)
33 of Section 25218.1, that offers in writing to participate in the
34 program.

35 (d) Describe opportunities for collection and management of
36 covered products for residents of the state on weekdays outside of
37 the hours of 8:00 a.m. to 5:00 p.m., and on weekends.

38 (e) Include strategies to ensure that elderly consumers, disabled
39 consumers, and any other consumers with limited mobility, have
40 access to the safe and proper collection and management of covered

1 products, including opportunities to have covered products
2 collected.

3 (f) Describe how the producer responsibility organization will
4 leverage and use existing collection programs and infrastructure.

5 (g) (1) Ensure a decrease in the aggregate percentage of
6 covered products improperly disposed of by 40 percent by 2036,
7 as measured against the baseline determined pursuant to Section
8 25218.52.

9 (2) *The department may set an interim diversion target for the*
10 *years 2026 to 2035, inclusive.*

11 (3) *The department may set a diversion target for 2037, and for*
12 *each year thereafter, that is in excess of the diversion target*
13 *specified in paragraph (1).*

14 (h) (1) Ensure at least 70 percent of California consumers are
15 aware of the program implemented by the producer responsibility
16 organization by 2036.

17 (2) *The department may set an interim consumer awareness*
18 *target for the years 2026 to 2035, inclusive.*

19 (3) *The department may set a consumer awareness target for*
20 *2037, and for each year thereafter, that is in excess of the consumer*
21 *awareness target specified in paragraph (1).*

22 (i) Describe how the producer responsibility organization will
23 incentivize minimizing disposal of covered products, when feasible,
24 including through reuse, recycling, and reducing the amount of
25 covered products being disposed of.

26 (j) Include the contact information of each participant producer.

27 (k) Include a financial section that demonstrates how the
28 producer responsibility organization will comply with Section
29 25218.58, including, but not limited to, a five-year budget that
30 demonstrates how the producer responsibility organization will
31 comply with subdivision (b) of Section 25218.58.

32 (l) Include a section describing the producer responsibility
33 organization's contingency plan in the event the producer
34 responsibility plan expires or is revoked. The contingency plan
35 shall guarantee that all the contracts, financial data, and any other
36 necessary authority and assets to operate the program shall vest in
37 a trustee approved by the department. The trustee shall operate the
38 most recently approved plan, subject to the direction of the
39 department, until such time as a new producer responsibility plan
40 is approved. Upon the expiration or revocation of a producer

1 responsibility plan, the balance of the producer responsibility
2 organization's operating reserves collected shall be transferred to
3 the control of the trustee within five calendar days. All documents,
4 digital records, contracts, and files related to the operation of the
5 producer responsibility plan shall be transferred to the control of
6 the trustee within five calendar days.

7 (m) Include a section describing a comprehensive statewide
8 education and outreach program designed to educate consumers
9 and promote participation in the program offered by the producer
10 responsibility organization. This shall include a description of
11 efforts to support participation by all California communities,
12 including a description of efforts to communicate with consumers
13 in languages other than English. The comprehensive statewide
14 education and outreach program shall do all of the following:

15 (1) Promote the safe and proper management of a covered
16 product and shall not promote the disposal of a covered product
17 in a manner inconsistent with the services offered by the producer
18 responsibility plan.

19 (2) Include information for consumers on how to properly
20 manage a covered product at the time of disposal and how to avoid
21 improper disposal of a covered product.

22 (3) Include information for consumers about how to reduce the
23 amount of covered products being disposed of and how to
24 participate in reuse opportunities for covered products.

25 (4) Include information related to environmentally preferable
26 purchasing and how to identify less hazardous alternatives.

27 25218.57. (a) The producer responsibility organization shall
28 review its approved plan at least every five years and determine
29 whether revisions are necessary.

30 (b) If the producer responsibility organization determines that
31 revisions to its approved plan are necessary, the producer
32 responsibility organization shall submit to the department a revised
33 plan for review and approval using the procedures set forth in
34 Section 25218.55. The producer responsibility organization shall
35 submit the revised plan to the department at least 12 months before
36 the review deadline outlined in subdivision (a). The revised plan
37 shall include a cover letter that summarizes the revisions to the
38 producer responsibility plan.

39 (c) If the producer responsibility organization determines that
40 no revisions to the approved plan are necessary, the producer

1 responsibility organization shall send a letter to the department 12
2 months before the review deadline outlined in subdivision (a)
3 explaining that the producer responsibility organization has
4 reviewed the approved plan and determined that no revisions are
5 needed. The department may disapprove the producer responsibility
6 organization's determination within 30 days of receipt of the letter
7 if the department concludes that the producer responsibility
8 organization cannot implement the objectives of this article without
9 revising the approved plan. If the department disapproves the
10 producer responsibility organization's determination, the
11 department may indicate to the producer responsibility organization
12 which sections of the approved plan need revision and the producer
13 responsibility organization shall submit to the department a revised
14 plan for review and approval, following the procedures set forth
15 in Section 25218.55. The producer responsibility organization
16 shall submit the revised plan pursuant to this subdivision within
17 60 days of receipt of the department's disapproval.

18 (d) The department may consult with or submit the revised plan
19 to another state agency or department if the department determines
20 it is necessary for making its determination. The duration of time
21 the department takes for this consultation is not included in the
22 time allotted to the department for review pursuant to this section.

23 25218.58. The producer responsibility organization shall do
24 all of the following:

25 (a) (1) Establish a method for fully funding the producer
26 responsibility organization and implementing an approved producer
27 responsibility plan in a manner that equitably distributes the
28 producer responsibility plan's costs among participant producers
29 in a manner that reflects sales volumes, consideration of the cost
30 of managing their specific covered products according to the
31 approved producer responsibility plan, and malus fees or credits
32 pursuant to paragraph (2).

33 (2) The distribution of the producer responsibility plan's costs
34 shall incorporate malus fees or credits for participant producers,
35 with adjustments based on any of the following, as applicable:

36 (A) (i) Actions taken by the participant producer to invest in
37 sustainable packaging or product reuse and refill systems that
38 ensure the covered product does not become waste, either through
39 the waste stream or illegal dumping.

1 (ii) Clause (i) does not apply to a packaging product subject to
2 another statewide stewardship or advanced disposal fee-based
3 program for collection or management pursuant to state law.

4 (B) Actions taken by the participant producer, including clear
5 and accurate labeling and instructions, that improve consumer
6 behavior related to sorting and proper disposal of the covered
7 product.

8 (C) Actions taken by the participant producer to reduce the
9 relative toxicity, ignitability, corrosiveness, or reactivity of the
10 covered product.

11 (b) (1) Operate on a budget that establishes a funding level
12 sufficient to operate the producer responsibility organization in a
13 prudent and responsible manner. The budget shall demonstrate
14 how the producer responsibility organization's estimated revenues
15 will cover all of its budgeted costs for each cost category. Budgeted
16 cost categories shall include, but are not limited to, administrative
17 costs, capital costs, and a reserve.

18 (2) Administrative costs shall include the actual and reasonable
19 regulatory costs incurred by the department, which includes full
20 personnel costs, to implement and enforce this article, consistent
21 with the regulations described in Section 25218.52. For purposes
22 of this paragraph, producer responsibility organization
23 implementation begins upon approval of the producer responsibility
24 organization's producer responsibility plan, except that costs shall
25 include actual regulatory development costs and other startup costs
26 incurred before a producer responsibility plan's submittal and
27 approval.

28 (3) The reserve shall include funds to operate the producer
29 responsibility organization if there are unexpected events, losses
30 of income, or large unbudgeted expenses. The reserve shall also
31 protect the infrastructure that the producer responsibility
32 organization relies on in its producer responsibility plan during
33 any lapse in producer participation during the life of the program.
34 The reserve cost category shall include a reserve level amount
35 description justifying the reserve level amount indicated. The
36 producer responsibility organization shall maintain reserve funds
37 sufficient to operate the producer responsibility plan for not less
38 than six months. When a new producer responsibility organization
39 is approved by the department, the producer responsibility
40 organization shall establish its reserve and maintain the required

1 reserve fund balance by the end of the second year of producer
2 responsibility plan operation. If the producer responsibility
3 organization's producer responsibility plan expires or is revoked,
4 the reserve balance shall be transferred to a successor producer
5 responsibility organization or a trustee pursuant to the portion of
6 the producer responsibility plan described in subdivision (f) of
7 Section 25218.56.

8 (c) On a schedule determined by the department, pay the
9 department fees to cover the department's regulatory costs, as
10 described in Section 25218.60.

11 (d) Establish a process by which the financial activities of the
12 producer responsibility organization that are related to
13 implementation of the producer responsibility plan will be subject
14 to an independent audit consistent with generally accepted
15 accounting principles and pursuant to Section 25218.63.

16 (e) Provide written certification by an authorized representative
17 of the producer responsibility organization that, at the time of
18 submission to the department, all aspects of the producer
19 responsibility plan are in compliance with all applicable state and
20 federal laws and regulations.

21 (f) Have adequate financial responsibility and financial controls
22 in place, including fraud prevention measures, to ensure proper
23 management of funds.

24 25218.59. Each participant producer shall, through the producer
25 responsibility organization, pay all administrative and operational
26 costs associated with establishing and implementing the producer
27 responsibility organization's approved plan, including the cost of
28 the collection, transportation, and safe and proper management of
29 covered products, including covered products that have been
30 illegally dumped.

31 25218.60. (a) Within four months of the effective date of the
32 regulations described in Section 25218.52, the department shall
33 notify the producer responsibility organization of the estimated
34 regulatory costs for the department and the criteria for the costs
35 specified in the regulations. Those costs shall include the costs
36 associated with developing the regulations and other department
37 activities that occur before a producer responsibility plan's
38 submittal and approval, including, but not limited to, full personnel
39 costs related to implementing and enforcing this article. The costs

1 shall not exceed the department's reasonable regulatory costs to
2 implement and enforce this article.

3 (b) The department shall deposit all moneys received from the
4 producer responsibility organization pursuant to this section into
5 the Household Hazardous Waste Producer Responsibility Fund,
6 which is hereby established in the State Treasury.

7 (c) Upon appropriation by the Legislature, moneys in the
8 Household Hazardous Waste Producer Responsibility Fund shall
9 be expended by the department to implement and enforce this
10 article and to reimburse any outstanding loans made from other
11 funds used to finance the development of the regulations and the
12 startup costs of the department's activities pursuant to this article.

13 (d) The moneys in the Household Hazardous Waste Producer
14 Responsibility Fund shall only be expended for those purposes
15 described in subdivision (c).

16 25218.61. (a) If the producer responsibility plan relies on a
17 local jurisdiction to collect or manage a covered product, or to
18 otherwise comply with this article, then the producer responsibility
19 organization shall reimburse the local jurisdiction for costs
20 associated with the collection and management of the covered
21 product, including, but not limited to, the cost of providing supplies
22 for the collection of, transportation, and disposal of covered
23 materials, including the jurisdiction's labor and administrative
24 costs based on the proportion of covered to noncovered products
25 collected at the facility.

26 (b) Reimbursement costs pursuant to subdivision (a) shall be
27 limited to the actual costs of, supplies, transportation, and
28 management of a covered product, including the costs to reimburse
29 local jurisdictions to collect and manage covered products that
30 have been illegally dumped.

31 25218.62. (a) The producer responsibility organization shall
32 keep board minutes, books, and records that clearly reflect the
33 activities and transactions of the producer responsibility
34 organization for a period of not less than five years.

35 (b) A producer and the producer responsibility organization
36 shall do both of the following:

37 (1) Upon request, provide the department with reasonable and
38 timely access, as determined by the department, to its facilities
39 and operations, as necessary to determine compliance with this
40 article.

1 (2) Within 14 days of a request from the department, provide
2 the department with relevant records, as determined by the
3 department, necessary to determine compliance with this article.

4 (c) The department may audit the producer responsibility
5 organization annually.

6 (d) All reports and records provided to the department pursuant
7 to this article shall be provided under penalty of perjury.

8 (e) The failure of the producer responsibility organization, a
9 participant producer, or their respective agent who holds records
10 to produce documents or data that is requested by the department,
11 required to be collected or generated to carry out operation of the
12 producer responsibility plan in the form and manner determined
13 by the department as part of a department audit, or review of a
14 third-party audit, shall constitute a violation of this article.

15 (f) The department may impose administrative civil penalties
16 pursuant to Section 25218.68 on a producer or producer
17 responsibility organization that fails to provide the department
18 with the access required pursuant to this section.

19 25218.63. (a) The producer responsibility organization shall
20 retain an independent certified public accountant, certified in the
21 United States, to annually audit the accounting books of the
22 producer responsibility organization. The department shall review
23 the independent certified public accountant's audit for compliance
24 with this article and consistency with the producer responsibility
25 organization's approved producer responsibility plan and the annual
26 report required by Section 25218.64. After the department conducts
27 its own review, the department shall notify the producer
28 responsibility organization of any conduct or practice that does
29 not comply with this article or of any inconsistencies identified in
30 the review. The producer responsibility organization may obtain
31 copies of the department's review, including proprietary
32 information contained in the department's review, upon request.
33 The producer or producer responsibility organization may request
34 the department withhold from disclosure confidential proprietary
35 information to the extent allowed under Section 1040 of the
36 Evidence Code and the California Public Records Act (Division
37 10 (commencing with Section 7920.000) of Title 1 of the
38 Government Code).

39 (b) The items submitted to the department for its review of the
40 independent audit shall include all of the following:

1 (1) Financial statements audited in accordance with generally
2 accepted accounting principles.

3 (2) An audit of the producer responsibility organization's
4 compliance with this article.

5 (3) An audit of the producer responsibility organization's
6 adherence to, execution of, and consistency with its approved plan.

7 (c) The producer responsibility organization shall include the
8 independent audit in its annual report submitted to the department
9 pursuant to Section 25218.64 commencing within 18 months of
10 the producer responsibility plan's approval by the department

11 25218.64. On or before January 1 of each year, the producer
12 responsibility organization shall submit to the department, and
13 make publicly available, an annual report, in a format prescribed
14 by the department, that includes, at minimum, all of the following
15 information for the preceding calendar year, unless otherwise
16 specified:

17 (a) The producer responsibility organization's costs, according
18 to the cost categories established in the producer responsibility
19 plan, and revenues.

20 (b) A summary of any anticipated changes to allocations in cost
21 categories for the next calendar year.

22 (c) Any changes to the distribution of costs to the participant
23 producers.

24 (d) Updated contact information for participant producers.

25 (e) An estimate of the quantity of covered products sold in or
26 into the state by participant producers, as determined by the best
27 available commercial data.

28 (f) A summary of efforts made as part of the comprehensive
29 statewide education and outreach program, as required by
30 subdivision (f) of Section 25218.56, including the producer
31 responsibility organization's evaluation of the effectiveness of the
32 program.

33 (g) Recommendations for any future proposed substantial
34 changes to the producer responsibility plan.

35 (h) Any other information required by the regulations described
36 in Section 25218.52.

37 25218.65. (a) No later than 120 days after the date the
38 department receives an annual report pursuant to Section 25218.64,
39 the department shall notify the producer responsibility organization
40 if the annual report is compliant or noncompliant.

1 (b) If the department determines that the annual report is
2 noncompliant due to failure to meet the requirements of this article,
3 the department may require the resubmittal of the annual report
4 and take enforcement action.

5 (c) The department may consult with or submit the annual report
6 to a state agency or department if it determines it is necessary to
7 determine the annual report's compliance or noncompliance.

8 25218.66. A retailer, dealer, importer, or distributor shall not
9 sell, distribute, offer for sale, or import a covered product in or
10 into the state unless the producer of the covered product is listed
11 as a compliant producer pursuant to Section 25218.67 or has
12 received a certification letter described in subdivision (e) of Section
13 25218.67.

14 25218.67. (a) Within 12 months of the effective date of the
15 regulations described in Section 25218.52, and on or before July
16 1 of each year thereafter, the department shall publish on the
17 department's internet website a list of the names of producers that
18 are compliant with this article. The department shall list, as
19 appropriate, the reported brands of covered products for each
20 producer.

21 (b) A retailer, importer, or distributor shall monitor the
22 department's internet website to determine if a producer, brand,
23 or covered product is in compliance with this article.

24 (c) Notwithstanding any other provision of this article, upon
25 identification of a producer that is not registered with the producer
26 responsibility organization with an approved producer
27 responsibility plan, the department shall issue a notice of
28 noncompliance to the producer.

29 (d) If the department determines a producer is not in compliance
30 with this article, the department shall remove the producer and its
31 brands of covered products from the compliance list on its internet
32 website.

33 (e) The department shall provide a certification letter to a
34 producer that is not listed on the department's internet website as
35 a compliant producer, but that has demonstrated compliance with
36 this article to the department. The certification letter shall state
37 that the producer is in compliance with this article. The department
38 may update the compliance list on its website.

1 25218.68. (a) The department may impose a civil penalty on
2 any producer or stewardship organization that is in violation of
3 this article of up to the following amounts:

4 (1) Ten thousand dollars (\$10,000) per day.

5 (2) Fifty thousand dollars (\$50,000) per day if the violation is
6 intentional or knowing.

7 (b) In assessing or reviewing the amount of a civil penalty
8 imposed pursuant to subdivision (a) for a violation of this article,
9 the department or the court shall consider all of the following:

10 (1) The nature and extent of the violation.

11 (2) The number and severity of the violation or violations.

12 (3) The economic effect of the penalty on the violator.

13 (4) Whether the violator took good faith measures to comply
14 with this article and the period of time over which these
15 noncompliant actions were taken.

16 (5) The willfulness of the violator's misconduct.

17 (6) The deterrent effect that the imposition of the penalty would
18 have on both the violator and the regulated community.

19 (7) Any other factor that justice may require.

20 (c) Upon a written finding that a producer responsibility
21 organization, producer, importer, or any other party regulated
22 pursuant to this article has not met a material requirement of this
23 article, in addition to any other penalties authorized pursuant to
24 this article, the department may take one or all of the following
25 actions to ensure compliance with the requirements of this article,
26 after affording the producer responsibility organization, producer,
27 importer, or any other party regulated pursuant to this article, an
28 opportunity to respond to or rebut the finding:

29 (1) Revoke the producer responsibility organization's approved
30 producer responsibility plan or require the producer responsibility
31 organization to resubmit the producer responsibility plan, in whole
32 or in part.

33 (2) Require additional reporting relating to compliance with the
34 material requirements of this article that were not met.

35 (3) Approve a producer responsibility plan submitted by another
36 producer responsibility organization.

37 (d) The department shall deposit all penalties collected pursuant
38 to this section into the Household Hazardous Waste Products
39 Penalty Account, which is hereby created in the Household
40 Hazardous Waste Producer Responsibility Fund. Upon

1 appropriation by the Legislature, moneys in the Household
2 Hazardous Waste Products Penalty Account shall be available for
3 expenditure by the department for activities related to the
4 collection, reuse, and recycling of covered products, grants for
5 related purposes, and the administration and enforcement of this
6 article.

7 (e) The Administrative Adjudication Bill of Rights (Article 6
8 (commencing with Section 11425.10) of Chapter 4.5 of Part 1 of
9 Division 3 of Title 2 of the Government Code) applies to hearings
10 conducted pursuant to this article and mandates minimum due
11 process requirements.

12 25218.69. (a) After the time for judicial review under Section
13 11523 of the Government Code has expired, the department may
14 apply to the small claims court or superior court, depending on the
15 jurisdictional amount and any other remedy sought, in the county
16 where the penalties, restitution, or other remedy was imposed by
17 the department, for a judgment to collect any unpaid civil penalties
18 or restitution or to enforce any other remedy provided by this
19 article. The application, which shall include a certified copy of the
20 final agency order or decision, shall constitute a sufficient showing
21 to warrant the issuance of the judgment. The court clerk shall enter
22 the judgment immediately in conformity with the application. The
23 judgment so entered shall have the same force and effect as, and
24 shall be subject to all laws relating to, a judgment in a civil action
25 and may be enforced in the same manner as any other judgment
26 of the court. The court shall make enforcement of the judgment a
27 priority.

28 (b) If a person has engaged in or is about to engage in an act,
29 practice, or omission that constitutes, or will constitute, a violation
30 of this article, the Attorney General may, at the request of the
31 director of the department or upon the Attorney General's own
32 determination, bring an action in superior court for an order
33 enjoining the act, practice, or omission. The order may require
34 remedial measures and direct compliance with this article. Upon
35 a showing that the person has engaged in or is about to engage in
36 that act, practice, or omission, the superior court may issue a
37 permanent or temporary injunction, restraining order, or other
38 order, as appropriate.

1 25218.70. In support of this article, the Department of
2 Resources Recycling and Recovery shall include both of the
3 following in updates to the applicable waste characterization study:

4 (a) The amount of covered products, by covered product
5 category, that was improperly disposed of and observed in the
6 waste characterization study.

7 (b) In an appendix, the amount of covered products, by covered
8 product category, properly collected and managed by a household
9 hazardous waste collection facility.

10 25218.71. (a) Except as provided in subdivision (b), an action
11 that is taken by a producer or producer responsibility organization
12 is not a violation of the Cartwright Act (Chapter 2 (commencing
13 with Section 16700) of Part 2 of Division 7 of the Business and
14 Professions Code), the Unfair Practices Act (Chapter 4
15 (commencing with Section 17000) of Part 2 of Division 7 of the
16 Business and Professions Code), or the Unfair Competition Law
17 (Chapter 5 (commencing with Section 17200) of Part 2 of Division
18 7 of the Business and Professions Code) to the extent the producer
19 or producer responsibility organization is exercising authority
20 pursuant to this article.

21 (b) Subdivision (a) applies to all of the following actions taken
22 by a producer responsibility organization:

23 (1) The creation, implementation, or management of a producer
24 responsibility plan approved or conditionally approved by the
25 department pursuant to this article and the determination of the
26 types or quantities of covered products recycled or otherwise
27 managed pursuant to the producer responsibility plan.

28 (2) The determination of the cost and structure of an approved
29 producer responsibility plan.

30 (3) The establishment, administration, collection, or
31 disbursement of a charge associated with funding the
32 implementation of this article.

33 (c) Subdivision (a) does not apply to an agreement that does
34 any of the following:

35 (1) Fixes a price of or for covered products.

36 (2) Fixes the output or production of covered products.

37 (3) Restricts the geographic area in which, or customers to
38 whom, covered products will be sold.

39 SEC. 3. The Legislature finds and declares that Section 2 of
40 this act, which adds Sections 25218.55 and 25218.63 to the Health

1 and Safety Code, imposes a limitation on the public's right of
2 access to the meetings of public bodies or the writings of public
3 officials and agencies within the meaning of Section 3 of Article
4 I of the California Constitution. Pursuant to that constitutional
5 provision, the Legislature makes the following findings to
6 demonstrate the interest protected by this limitation and the need
7 for protecting that interest:

8 In order to ensure the effective solid waste management of, and
9 viable markets for, products that contain household hazardous
10 waste, it is necessary to protect the proprietary information of
11 producers, retailers, wholesalers, and solid waste enterprises by
12 keeping confidential the financial, production, and sales data
13 reported by those entities under Section 2 of this act.

14 SEC. 4. No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution because
16 the only costs that may be incurred by a local agency or school
17 district will be incurred because this act creates a new crime or
18 infraction, eliminates a crime or infraction, or changes the penalty
19 for a crime or infraction, within the meaning of Section 17556 of
20 the Government Code, or changes the definition of a crime within
21 the meaning of Section 6 of Article XIII B of the California
22 Constitution.