

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

H.B. 882
Apr 9, 2025
HOUSE PRINCIPAL CLERK

H

D

HOUSE BILL DRH30358-NM-43

Short Title: Break Free From Plastic & Forever Chemicals. (Public)

Sponsors: Representative Harrison.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH EXTENDED PRODUCER RESPONSIBILITY FOR CERTAIN
3 PRODUCERS OF PACKAGING MATERIALS, BAN CERTAIN TOXIC SUBSTANCES
4 IN PACKAGING MATERIALS, AND BAN INTENTIONALLY ADDED PFAS IN
5 COVERED PRODUCTS.

6 The General Assembly of North Carolina enacts:

7
8 **PART I. ESTABLISH EXTENDED PRODUCER RESPONSIBILITY FOR CERTAIN**
9 **PRODUCERS OF PACKAGING MATERIALS**

10 **SECTION 1.(a)** Article 9 of Chapter 130A of the General Statutes is amended by
11 adding a new Part to read:

12 "Part 2K. Extended Producer Responsibility.

13 "**§ 130A-309.250. Definitions.**

14 Unless a different meaning is required by the context, the following definitions apply
15 throughout this Part:

- 16 (1) Collector. – Any publicly or privately owned solid waste management
17 services or recycler that gathers discarded packaging materials from
18 residential, commercial, industrial, or governmental establishments.
- 19 (2) Fulfillment service provider. – A person that handles, on behalf of a
20 responsible producer, products in which the producer retains a property
21 interest and offers at least two of the following services as part of a
22 commercial activity: (i) warehousing, (ii) packaging, and (iii) addressing and
23 shipping. For purposes of this Part, "fulfillment service provider" does not
24 include postal or freight service providers.
- 25 (3) Packaging material. – Any part of a package or container, regardless of
26 recyclability or compostability, including material types such as paper, plastic,
27 glass, or metal, that is used for the containment, protection, handling, delivery,
28 transport, distribution, and presentation of a product that is sold, offered for
29 sale, or distributed in North Carolina. Bags are included within this definition.
30 Packaging material does not include any of the following:
- 31 a. Material, or a category of material, intended to be used for long-term
32 storage or protection of a durable product that can be expected to be
33 usable for that purpose for a period of at least five years.
- 34 b. Medical devices and packaging that are included with products
35 regulated as a drug, medical device, or dietary supplement under the
36 Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 321, et seq.



* D R H 3 0 3 5 8 - N M - 4 3 *

1 c. Packaging products used to contain substances hazardous to the
2 environment, regulated under the Federal Insecticide, Fungicide, and
3 Rodenticide Act, 7 U.S.C. § 136, et seq.

4 (4) Postconsumer waste material. – As defined in G.S. 105-129.25.

5 (5) Producer responsibility fund. – A privately held account established and
6 managed by the producer responsibility organization pursuant to
7 G.S. 130A-309.237(d).

8 (6) Producer responsibility organization or organization. – A not-for-profit entity
9 formed by one or more responsible producers to act as an agent on behalf of
10 each producer to develop and implement a stewardship plan.

11 (7) Readily-recyclable. – Recyclable material, as defined in G.S. 130A-290, that
12 the Department determines can be sorted by business entities in this State and
13 has a consistent market for purchase.

14 (8) Recycling rate. – The percentage of discarded packaging material that is
15 managed through recycling or reuse, which is calculated by dividing the
16 amount of discarded packaging material collected and recycled or reused by
17 the total amount of discarded packaging material collected over a program
18 year.

19 (9) Responsible producer or producer. – Any of the following:

20 a. A person that manufactures a product contained, protected, delivered,
21 presented, or distributed in or using packaging material and sells,
22 offers for sale, uses in a commercial enterprise, or distributes the
23 product in or into the State under the brand of the manufacturer.

24 b. If sub-subdivision a. of this subdivision does not apply, a person who
25 is not the manufacturer of the product but is the owner or licensee of a
26 trademark under which the product contained, protected, delivered,
27 presented, or distributed in or using packaging material is sold, offered
28 for sale, used in a commercial enterprise, or distributed in or into the
29 State, regardless of whether the trademark is registered.

30 c. If sub-subdivisions a. and b. of this subdivision do not apply, a person
31 that sells a product contained, protected, delivered, presented, or
32 distributed in or using packaging material and is intended to be filled
33 in the State at the point of sale.

34 d. If sub-subdivisions a., b., and c. of this subdivision do not apply, a
35 person that sells, offers for sale, uses in a commercial enterprise, or
36 distributes a product contained, protected, delivered, presented, or
37 distributed in or using packaging material.

38 e. Fulfillment service providers.

39 (10) Reusable. – An object or material designed to be used repeatedly for a number
40 of use cycles.

41 (11) Stewardship plan. – A detailed plan that describes the manner in which
42 responsible producers shall comply with the requirements of this Part and all
43 rules adopted by the Commission pursuant to this Part.

44 **§ 130A-309.251. Requirements for responsible producers.**

45 (a) Registration Required. – Each responsible producer shall register with the Department
46 before selling, offering for sale, or distributing in North Carolina a product contained, protected,
47 delivered, presented, or distributed in or using packaging materials.

48 (b) Stewardship Plan Required. – No responsible producer shall sell, offer for sale, or
49 distribute in North Carolina a product contained, protected, delivered, presented, or distributed
50 in or using packaging materials unless the producer participates as a member of a producer

1 responsibility organization for which a stewardship plan is approved by the Department, and
2 through that participation, satisfies the requirements of subsections (c), (d), and (e) of this section.

3 (c) Non-Reusable Packaging Material Reduction Requirements. – According to the
4 following schedule, each responsible producer shall reduce the total amount of non-reusable
5 packaging materials used for containing, protecting, delivering, presenting, and distributing
6 products sold, offered for sale, or distributed in this State (i) by unit, (ii) on average, and (iii) in
7 the aggregate:

8 (1) Ten percent (10%) after two years following approval of the stewardship plan.

9 (2) Twenty percent (20%) after four years following approval of the stewardship
10 plan.

11 (3) Thirty percent (30%) after six years following approval of the stewardship
12 plan.

13 (4) Forty percent (40%) after eight years following approval of the stewardship
14 plan.

15 The reductions required by this subsection shall be measured against the total amount of
16 packaging material the responsible producer used for containing, protecting, delivering,
17 presenting, and distributing the products it sold, offered for sale, or distributed in this State during
18 the respective calendar year.

19 (d) Recycling-Rate Requirements. – Each responsible producer shall ensure that all
20 non-reusable packaging material, in the aggregate, used for containing, protecting, delivering,
21 presenting, and distributing the products it sold, offered for sale, or distributed in this State is
22 recycled at a rate consistent with the following schedule:

23 (1) Fifty percent (50%) after five years following approval of the stewardship
24 plan.

25 (2) Eighty percent (80%) after eight years following approval of the stewardship
26 plan.

27 (3) Ninety percent (90%) after 12 years following approval of the stewardship
28 plan.

29 (e) Postconsumer Waste Material Content Requirements. – Each responsible producer
30 shall ensure that all non-reusable packaging material used for containing, protecting, delivering,
31 presenting, and distributing the products it sold, offered for sale, or distributed in this State
32 incorporates, on average and in the aggregate, the following amount, by weight, of postconsumer
33 waste material in accordance with the following schedule:

34 (1) Fifty percent (50%) after five years following approval of the stewardship
35 plan.

36 (2) Eighty percent (80%) after eight years following approval of the stewardship
37 plan.

38 (3) Ninety percent (90%) after 12 years following approval of the stewardship
39 plan.

40 **"§ 130A-309.252. Producer responsibility organizations; participation fees.**

41 (a) Membership Requirement. – Each responsible producer shall establish or join a
42 producer responsibility organization to act as an agent on behalf of the producer for the purposes
43 of satisfying its obligations under this Part. A producer may participate in more than one producer
44 responsibility organization if each organization is established for a different category of
45 packaging materials. Any producer responsibility organization formed for the purpose of
46 complying with this Part shall be established and operated as an organization described in section
47 501(c)(3) of the Internal Revenue Code of 1986.

48 (b) Participation Fees. – A producer responsibility organization shall establish
49 participation fees for its member producers that are sufficient to cover all costs of developing and
50 implementing the stewardship plan, including each producer's proportionate share of
51 administrative, enforcement, and outreach and education costs. The participation fee must reflect

1 the per ton costs associated with the collection, processing, transportation, and recycling and
2 disposal of a producer's packaging material.

3 (c) Fee Structure. – A producer responsibility organization shall structure the
4 participation fees to provide producers with financial incentives to reward waste reduction and
5 recycling compatibility innovations and practices and to discourage designs or practices that
6 increase costs of managing the products. The producer responsibility organization may adjust
7 fees to be paid by each participating producer based on factors that affect system costs. At a
8 minimum, fees shall be variable based on the following:

9 (1) Costs to provide curbside collection of packaging material, or other levels of
10 collection service, that is, at a minimum, as convenient as the recycling
11 collection service offered in the particular jurisdiction prior to the
12 implementation of the stewardship plan.

13 (2) Costs to process a producer's packaging material for acceptance by secondary
14 material markets.

15 (3) Whether the packaging material includes labels, inks, and adhesives
16 containing heavy metals or other hazardous wastes that would contaminate
17 the recycling process.

18 (4) Whether the packaging material is specifically designed to be reusable or
19 refillable and has a high reuse or refill rate.

20 (5) The percentage of postconsumer waste material in a producer's packaging
21 material.

22 (6) Contributions to greenhouse gas emissions from the production, use,
23 collection, processing, and marketing of the packaging material.

24 The producer responsibility organization shall annually evaluate, revise, and submit an
25 updated fee assessment schedule to the Department.

26 (d) Producer Responsibility Fund. – A producer responsibility organization shall
27 establish and manage a producer responsibility fund. The organization shall deposit into the fund
28 all payments received from responsible producers in accordance with this section and shall
29 expend those funds for the following uses:

30 (1) To reimburse participating collectors in accordance with G.S. 130A-309.240.

31 (2) To fund collection and convenience obligations, required pursuant to
32 G.S. 130A-309.241.

33 (3) To fund the outreach and education programming, required pursuant to
34 G.S. 130A-309.243.

35 (4) To fund the actual operating costs of the organization, which may not exceed
36 the estimated operating costs indicated in the stewardship plan approved by
37 the Department pursuant to G.S. 130A-309.239.

38 (5) To pay fees assessed by the Department for the purposes of implementing this
39 Part.

40 (e) Payment of Participation Fees. – No later than 30 days after the approval of the
41 stewardship plan under G.S. 130A-309.239, and quarterly thereafter, a responsible producer shall
42 pay the producer responsibility organization any outstanding participation fees, to be deposited
43 into the producer responsibility fund.

44 (f) Producer Information Requirement. – A responsible producer participating in a
45 producer responsibility organization shall provide the organization with all information
46 necessary (i) for determining the producer's compliance with the stewardship plan and (ii) for
47 calculating the participation fees to be assessed to the producer.

48 **"§ 130A-309.253. Stewardship plan.**

49 (a) Each producer responsibility organization shall develop and submit a stewardship
50 plan to the Department. Such plan shall be effective for five years and shall be reviewed and
51 updated every five years following the approval of the initial plan. The Department may require

1 the stewardship plan to be reviewed or revised prior to the five-year period if the Department has
2 cause to believe the minimum non-reusable packaging material reduction rates, the minimum
3 recycling rates, the minimum postconsumer waste material content rates, or other requirements
4 established in accordance with an approved stewardship plan are not being met or followed by
5 the responsible producer or producer responsibility organization, or if there has been a change in
6 circumstances that warrants revision to the stewardship plan.

7 (b) Each stewardship plan shall contain, at a minimum, all of the following:

8 (1) Contact information for the producer responsibility organization and the
9 responsible producers covered under the stewardship plan.

10 (2) A comprehensive list of the packaging materials for which the producer or
11 producer responsibility organization is responsible under the stewardship
12 plan.

13 (3) A description of how the producer responsibility organization, along with its
14 member producers, will meet or exceed the requirements established in
15 G.S. 130A-309.236.

16 (4) A description of how the packaging materials covered under the stewardship
17 plan will be collected and managed using environmentally sound management
18 practices.

19 (5) A description of how the producer responsibility organization will work with
20 collectors to comply with the collection and convenience requirements
21 pursuant to G.S. 130A-309.241.

22 (6) A proposal for implementing the outreach and education program, required
23 pursuant to G.S. 130A-309.243, in a manner that increases access to recycling
24 throughout the State.

25 (7) A proposal for implementing the labeling requirements pursuant to
26 G.S. 130A-309.242, including a description of how the producer
27 responsibility organization will ensure compliance by assisting its member
28 producers and regularly verifying labeling claims through independent,
29 third-party audits.

30 (8) A description of the participation fees and the methodology used for
31 determining the structure of the participation fees, allocated to responsible
32 producers, that meet the requirements of this Part and are sufficient to cover
33 the cost of developing, submitting, implementing, and updating the
34 stewardship plan and maintaining a financial reserve sufficient to implement
35 the stewardship plan in a financially prudent and responsible manner.

36 (9) A description of how the producer responsibility organization plans to
37 establish and manage the producer responsibility fund, including staffing to
38 manage the fund, ensuring equity of access to collection opportunities for
39 customers across the State, providing technical support to responsible
40 producers regarding program requirements, administering and collecting
41 payments to and reimbursements from the fund, and the investment types, if
42 any, the organization intends to use to manage monies within the fund.

43 (10) A description of the process for collectors to recoup all reasonable
44 activity-based costs, both operational and capital, from the producer
45 responsibility organization for collecting, transporting, or sorting packaging
46 materials covered under the stewardship plan.

47 (11) A description of how stakeholder comments were considered in the
48 development of the stewardship plan, including a summary and analysis of the
49 issues raised and significant changes recommended by stakeholders, a
50 statement of the reasons why any significant changes were not incorporated

1 into the proposed stewardship plan, and a description of any changes made to
2 the proposed stewardship plan as a result of such comments.

3 (12) Any additional information requested by the Department.

4 (c) A producer responsibility organization shall provide stakeholders, including units of
5 local government, municipal solid waste management facilities, recycling facilities, collectors,
6 and other members of the general public with an opportunity to review and comment on the draft
7 stewardship plan prior to its submission to the Department.

8 (d) A producer responsibility organization may prepare a revised stewardship plan and
9 submit it to the Department at any time the organization considers appropriate in response to
10 changed circumstances, including to incorporate additional responsible producers to an existing
11 stewardship plan.

12 **"§ 130A-309.254. Review and approval of proposed stewardship plans.**

13 (a) No later than 90 days after the submission of the stewardship plan, the Department
14 shall make a determination to approve the plan as submitted, approve the plan with conditions,
15 or deny the plan.

16 (b) In reviewing any stewardship plan under this Part, the Department shall consider
17 whether the stewardship plan:

18 (1) Adequately addresses all requirements set forth in G.S. 130A-309.238 with
19 sufficient detail.

20 (2) Provides a feasible strategy detailing how responsible producers will satisfy
21 the requirements established in G.S. 130A-309.236.

22 (3) Proposes participation fees that:

23 a. Sufficiently cover the entire cost of implementing the stewardship plan
24 and complying with all other requirements of this Part, including any
25 rules adopted by the Commission pursuant to this Part.

26 b. Adequately incentivize waste reduction and recycling compatibility
27 innovations and practices and discourage designs and practices that
28 increase the costs of managing packaging materials.

29 c. Equitably allocate implementation costs among responsible producers.

30 (4) Provides for widespread, convenient, and equitable collection opportunities,
31 as required pursuant to G.S. 130A-309.241.

32 (5) Provides for effective outreach and education programming, as required
33 pursuant to G.S. 130A-309.243.

34 (6) Provides a feasible strategy detailing how responsible producers will satisfy
35 the labeling requirements pursuant to G.S. 130A-309.242, including a
36 description of how the producer responsibility organization will verify each
37 producer's labeling claims through an independent, third-party audit.

38 (7) Proposes a schedule of collector reimbursement payments that are calculated
39 in a reasonable manner, pursuant to G.S. 130A-309.240, and that cover the
40 costs of collecting, recycling, processing, and disposing of the packaging
41 materials listed under the stewardship plan.

42 (8) Establishes a reasonable process for participating collectors to apply for and
43 receive reimbursements from the producer responsibility organization.

44 (9) Provides sufficient information to establish that the producer responsibility
45 organization engaged in a reasonable stakeholder review process, as required
46 pursuant to G.S. 130A-309.238(c).

47 (10) Satisfies any other requirements adopted by the Commission.

48 (c) No later than six months after the date the stewardship plan is approved, the producer
49 responsibility organization and its member producers shall implement the approved plan.

50 **"§ 130A-309.255. Collector reimbursement.**

1 (a) Collector Reimbursement. – A producer responsibility organization shall be
2 responsible for calculating and dispersing funding for collectors that elect to be compensated by
3 the producer responsibility organization for the recovery, recycling, and processing of packaging
4 materials.

5 (b) Eligibility. – Collectors must provide for recycling of all recyclable packaging
6 material listed under a stewardship plan in order to be eligible for reimbursement under this
7 section.

8 (c) Calculation of Reimbursement. – The reimbursement rate shall be based on the cost
9 of residential curbside collection, including the cost of curbside containers where relevant, as
10 well as the processing cost for each readily recyclable material, the cost of handling non-readily
11 recyclable material types collected as part of a recycling operation, the transportation cost of
12 recycling for each material type, and any other cost factors as determined by the Department.

13 (d) Collector Responsibilities. –

14 (1) To facilitate the producer responsibility organization's determination of the
15 cost of recycling, participating collectors shall annually report to the
16 organization all information necessary for the organization to determine the
17 collector's incurred net costs associated with the collection, processing,
18 transportation, and recycling and disposal of packaging material covered
19 under the stewardship plan.

20 (2) Participating collectors shall not charge fees to customers for reimbursable
21 costs.

22 **"§ 130A-309.256. Collection and convenience.**

23 (a) A producer responsibility organization shall provide for widespread, convenient, and
24 equitable access to collection opportunities for the packaging material identified under the
25 stewardship plan.

26 (b) A producer responsibility organization may rely on a range of means to collect various
27 categories of packaging material, including curbside collection, depot drop-off, and retailer
28 take-back. However, a producer responsibility organization shall provide for curbside or
29 multifamily recycling collection services if all of the following circumstances apply:

30 (1) The category of packaging materials is suitable for residential curbside
31 recycling collection and can be effectively sorted by the facilities receiving
32 the packaging material.

33 (2) The recycling facility providing processing and sorting service agrees to
34 accept the category of packaging material.

35 (3) The provider of residential curbside recycling service agrees to the producer
36 responsibility organization's reimbursement arrangement.

37 (4) The category of packaging material is not handled through a deposit and return
38 scheme or a buyback system that relies on a collection system other than
39 curbside collection.

40 **"§ 130A-309.257. Labeling.**

41 Responsible producers shall indicate on all packaging material used for containing,
42 protecting, delivering, presenting, or distributing products sold, offered for sale, or distributed in
43 the State (i) the percentage of postconsumer waste material content, (ii) whether the packaging
44 material is readily recyclable, and (iii) whether the packaging material is compostable. Such
45 labels must be in a form deemed appropriate by the Department pursuant to rules adopted by the
46 Commission.

47 **"§ 130A-309.258. Outreach and education.**

48 (a) A producer responsibility organization shall provide effective outreach, education,
49 and communications to consumers throughout the State regarding:

50 (1) Proper end-of-life management of packaging materials.

51 (2) The location and availability of curbside and drop-off collection opportunities.

1 (3) Recycling and composting instructions that are (i) consistent statewide, except
2 as necessary to take into account differences among local ordinances and
3 processing capabilities, (ii) easy to understand, and (iii) easily accessible.

4 (b) The outreach and education required pursuant to subsection (a) of this section shall:

5 (1) Be designed to achieve the packaging material requirements established
6 pursuant to G.S. 130A-309.236.

7 (2) Incorporate, at a minimum, electronic, print, web-based, and social media
8 elements that local governments may utilize at their discretion.

9 (3) Include, at a minimum, (i) consulting on education and outreach with local
10 governments and other stakeholders, (ii) coordinating with and assisting local
11 governments and solid waste facility operators, and other entities providing
12 services, and (iii) developing and providing outreach and education to the
13 diverse ethnic populations in the State.

14 (4) Include a plan to work with responsible producers to label packaging materials
15 with information to assist consumers in responsibly managing and recycling
16 the packaging materials.

17 (c) The Department shall review the effectiveness of outreach and education efforts under
18 this section to determine whether changes are necessary to improve those outreach and education
19 efforts and develop information that may be used to improve outreach and education efforts under
20 this section.

21 **"§ 130A-309.259. Reporting requirements and audits.**

22 (a) Each producer responsibility organization shall submit a report to the Department, in
23 a manner required by the Department, no later than July 1 each year following the approval of
24 the stewardship plan, evaluating progress toward meeting the requirements under this Part for
25 the immediately preceding year. The report shall include all of the following:

26 (1) The total amount of packaging material, by weight and unit, used for
27 containing, protecting, delivering, presenting, or distributing products sold,
28 offered for sale, or distributed into the State by each of its responsible
29 producers in the prior calendar year.

30 (2) Any information necessary for the Department to make a determination of the
31 producer responsibility organization's, and its member producers', compliance
32 with all of the following:

33 a. The non-reusable packaging reduction requirements, as provided by
34 G.S. 130A-309.236(c).

35 b. The recycling-rate requirements, as provided by
36 G.S. 130A-309.236(d).

37 c. The postconsumer waste material content requirements, as provided
38 by G.S. 130A-309.236(e).

39 d. The labeling requirements, as provided by G.S. 130A-309.242.

40 (3) The total costs of implementing the stewardship plan, accompanied by a copy
41 of an independent, third-party financial audit verifying these costs.

42 (4) The participation fees allocated to each of its responsible producers, including
43 a description of the methodology used to calculate the fees.

44 (5) An accounting of the reimbursements to participating collectors, including a
45 description of the methodology used to calculate the reimbursements.

46 (6) Any additional information requested by the Department.

47 (b) The Department shall maintain the confidentiality of any information that is required
48 to be submitted by a responsible producer or producer responsibility organization under this Part
49 that is designated as a trade secret, as defined in G.S. 66-152(3), and that is designated as
50 confidential or as a trade secret under G.S. 132-1.2.

1 (c) The Department shall compile and publish on its website a list of responsible
2 producers and producer responsibility organizations that are out of compliance with the
3 applicable stewardship plan or the requirements of this Part.

4 **"§ 130A-309.260. Fees.**

5 The Commission may adopt rules setting fees for responsible producers and producer
6 responsibility organizations that defray the Department's cost of administering this Part,
7 including costs related to reviewing and processing stewardship plans, overseeing the
8 implementation of the plans, and ensuring compliance with the requirements of this Part.

9 **"§ 130A-309.261. Penalties.**

10 (a) This Part may be enforced as provided by Part 2 of Article 1 of this Chapter.

11 (b) If a penalty is imposed on a producer responsibility organization under this section,
12 each responsible producer participating in the producer responsibility organization is jointly and
13 severally liable for the payment of the penalty.

14 **"§ 130A-309.262. Applicability.**

15 (a) Except as provided by G.S. 130A-309.236(a) and subsection (b) of this section,
16 responsible producers are exempt from this Part when they meet any of the following exceptions
17 in this subsection:

18 (1) The producer generated less than two million dollars (\$2,000,000) in gross
19 revenue during the immediately preceding calendar year.

20 (2) The producer sold, offered for sale, or distributed for sale less than 1 ton of
21 products in this State during the immediately preceding calendar year,
22 including packaging materials used to contain, protect, deliver, present, or
23 distribute the product.

24 (3) The producer conducted all product sales in this State during the immediately
25 preceding calendar year at a single point of retail sale that was not supplied or
26 operated as part of a franchise.

27 (b) A responsible producer shall submit to the Department sufficient information to
28 demonstrate that the producer, pursuant to subsection (a) of this section, is excluded from
29 regulation under this Part.

30 **"§ 130A-309.263. Rulemaking.**

31 The Commission may adopt rules to implement this Part."

32 **SECTION 1.(b)** This section becomes effective October 1, 2025, except that
33 G.S. 130A-309.236(b), 130A-309.240, 130A-309.241, 130A-309.242, and 130A-309.243
34 become effective October 1, 2026.

35
36 **PART II. BAN CERTAIN TOXIC SUBSTANCES IN PACKAGING MATERIALS**

37 **SECTION 2.(a)** Article 9 of Chapter 130A of the General Statutes is amended by
38 adding a new Part to read:

39 "Part 2L. Ban Manufacture and Distribution of Certain Toxic Substances in Packaging
40 Materials.

41 **"§ 130A-309.270. Prohibition on manufacture and distribution of packaging materials**
42 **containing certain toxic substances.**

43 (a) No person may knowingly do any of the following:

44 (1) Manufacture packaging material containing a covered toxic substance.

45 (2) Distribute, sell, or offer for sale, for use within the State or for export from the
46 State, any packaging material containing a covered toxic substance.

47 (b) For purposes of this section, the following definitions apply:

48 (1) Covered toxic substance. – Includes the following substances:

49 a. Ortho-phthalates.

50 b. Bisphenols.

51 c. PFAS.

- d. Lead and lead compounds.
- e. Hexavalent chromium and compounds.
- f. Cadmium and cadmium compounds.
- g. Mercury and mercury compounds.
- h. Benzophenone and its derivatives.
- i. Halogenated flame retardants.
- j. Perchlorate.
- k. Formaldehyde.
- l. Toluene.
- m. Polyvinyl chloride.
- n. Polystyrene.
- o. Polycarbonate.

(2) Packaging material. – As defined in G.S. 130A-309.235.

(3) PFAS. – Perfluoroalkyl and polyfluoroalkyl substances, a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

"§ 130A-309.271. Civil penalties.

(a) The Secretary may assess a civil penalty of not more than five thousand dollars (\$5,000) or, if the violation involves a hazardous waste, as defined in G.S. 130A-290, of not more than twenty-five thousand dollars (\$25,000) against any person who violates a requirement of this Part.

(b) If any action or failure to act for which a penalty may be assessed under subsection (a) of this section is a repeat offense, the Secretary may assess a penalty not to exceed ten thousand dollars (\$10,000) per occurrence. A penalty for multiple occurrences shall not exceed two hundred thousand dollars (\$200,000) in any month.

(c) In determining the amount of the penalty, the Secretary shall consider the factors set out in G.S. 143B-282.1(b). The procedures set out in G.S. 143B-282.1 shall apply to civil penalty assessments that are presented to the Commission for final agency decision.

(d) The Secretary shall notify any person assessed a civil penalty for the assessment and the specific reasons therefor by registered or certified mail or by any means authorized by G.S. 1A-1, Rule 4. Contested case petitions shall be filed pursuant to G.S. 150B-23 within 30 days of receipt of the notice of assessment.

(e) Requests for remission of civil penalties shall be filed with the Secretary. Remission requests shall not be considered unless made within 30 days of receipt of the notice of assessment. Remission requests must be accompanied by a waiver of the right to a contested case hearing pursuant to Chapter 150B of the General Statutes and a stipulation of the facts on which the assessment was based. Consistent with the limitations in G.S. 143B-282.1(c) and (d), remission requests may be resolved by the Secretary and the violator. If the Secretary and the violator are unable to resolve the request, the Secretary shall deliver the remission request and the recommended action to the Committee on Civil Penalty Remissions of the Environmental Management Commission appointed pursuant to G.S. 143B-282.1(c).

(f) If any civil penalty has not been paid within 30 days after notice of assessment has been served on the violator, the Secretary shall request the Attorney General to institute a civil action in the superior court of any county in which the violator resides or the violator's principal place of business is located in order to recover the amount of the assessment, unless the violator contests the assessment as provided in subsection (d) of this section or requests remission of the assessment in whole or in part as provided in subsection (e) of this section. If any civil penalty has not been paid within 30 days after the final agency decision or order has been served on the violator, the Secretary shall request the Attorney General to institute a civil action in the superior court of any county in which the violator resides or the violator's principal place of business is located to recover the amount of the assessment. A civil action must be filed within three years of the date the final agency decision or court order was served on the violator."

1 **SECTION 2.(b)** This section becomes effective October 1, 2025, and applies to
2 persons on or after that date who knowingly manufacture, distribute, sell, or offer for sale any
3 packaging materials containing covered toxic substances.
4

5 **PART III. BAN INTENTIONALLY ADDED PFAS IN COVERED PRODUCTS**
6 **INCLUDING FOOD PACKAGING, COMPOSTABLE CONTAINERS, AND**
7 **PACKAGING COMPONENTS, AND TO APPROPRIATE FUNDS TO THE**
8 **DEPARTMENT OF ENVIRONMENTAL QUALITY**

9 **SECTION 3.** Article 21A of Chapter 143 of the General Statutes is amended by
10 adding a new Part to read:

11 "Part 8. Ban Manufacture, Use, and Distribution of Certain Toxic Chemicals.

12 **§ 143-215.104BB. Prohibition on manufacture, use, and distribution of PFAS within the**
13 **State.**

14 (a) Definitions. – The following definitions apply in this Part:

15 (1) Compostable. – An item that reliably and entirely breaks down and becomes
16 part of usable compost no later than 180 days after proper disposal.
17 Compostable items may be made from organic materials such as bagasse,
18 sugarcane, bamboo, paper, hay, or certified compostable plastics that meet the
19 American Society for Testing and Materials (ASTM) standard specifications
20 for industrially compostable plastics D6400 and compostable plastic coatings
21 D6868. Permitted compostable plastics, often marketed as biodegradable,
22 must be clearly labeled with the applicable standard on the product.

23 (2) Covered product. – Any product subject to the requirements of this Part,
24 including food packaging.

25 (3) Food package or food packaging. – A package, compostable container, or
26 packaging component that is intended for direct food content.

27 (4) Intentionally added PFAS. – Any of the following:

28 a. PFAS added to a product or one of the product's components that have
29 a function or technical effect in the product, including the PFAS
30 components of products that constitute added chemicals or products
31 thereof.

32 b. PFAS used or produced during the manufacture or processing of a
33 product introduced into or onto the product, including any source of
34 PFAS that is reasonably known to be present, such as using processing
35 agents, mold release agents, or fluorination.

36 (5) Manufacturer. – The person who manufactures a product or whose brand
37 name is affixed to the product. If the product is imported into the United
38 States, the term "manufacturer" includes the importer or first domestic
39 distributor of the product, if the person that manufactured or assembled the
40 product or whose brand name is affixed to the product does not have a
41 principal place of business in the United States.

42 (6) PFAS. – Perfluoroalkyl and polyfluoroalkyl substances, a class of fluorinated
43 organic chemicals containing at least one fully fluorinated carbon atom.

44 (7) Product. – An item manufactured, assembled, packaged, or otherwise
45 prepared for sale to consumers, including its product components, sold or
46 distributed for personal, residential, commercial, or industrial use, including
47 for use in making other products. This does not include used products offered
48 for sale or resale.

49 (8) Product component. – An identifiable component of a product, regardless of
50 whether the manufacturer of the product is the manufacturer of the
51 component.

1 (9) Product label. – A display of written, printed, or graphic material that appears
2 on, or is affixed to, the exterior of a product, or its exterior container or
3 wrapper that is visible to a consumer, if the product has an exterior container
4 or wrapper.

5 (b) No person may knowingly manufacture, sell, or offer for sale any covered product
6 that contains intentionally added PFAS in this State. A manufacturer of a covered product shall
7 provide persons that offer the covered product for sale in this State with a certificate of
8 compliance stating, at a minimum, that the covered product is in compliance with the
9 requirements of this Part and does not contain any intentionally added PFAS. A certificate of
10 compliance provided under this subsection shall be signed by an authorized official or
11 representative of the manufacturer. The certificate of compliance may be provided to persons
12 through electronic means.

13 (c) This Part shall not apply to the sale or resale of used products."

14 **SECTION 4.(a)** There is appropriated from the General Fund to the Department of
15 Environmental Quality the sum of one hundred thousand dollars (\$100,000) in nonrecurring
16 funds for the 2025-2026 fiscal year to implement the provisions of this section.

17 **SECTION 4.(b)** This section becomes effective July 1, 2025.

18 **SECTION 5.** Except as otherwise provided, this act becomes effective October 1,
19 2025.