

SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE, No. 2515**

**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

ADOPTED DECEMBER 10, 2020

**Sponsored by:**

**Senator BOB SMITH**

**District 17 (Middlesex and Somerset)**

**Senator LINDA R. GREENSTEIN**

**District 14 (Mercer and Middlesex)**

**SYNOPSIS**

Establishes postconsumer recycled content requirements for rigid plastic containers, glass containers, paper and plastic carryout bags, and plastic trash bags; prohibits sale of polystyrene loose fill packaging.

**CURRENT VERSION OF TEXT**

Substitute as adopted by the Senate Environment and Energy Committee.



1 AN ACT concerning the use of postconsumer recycled content in  
2 certain containers and packaging products and supplementing  
3 Title 13 of the Revised Statutes.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. As used in this act:

9 “Beverage” means any of the following products if those  
10 products are in liquid, ready-to-drink form, and are intended for  
11 human consumption: milk and milk products; beer and other malt  
12 beverages; wine and distilled spirit coolers; carbonated water,  
13 including soda and carbonated mineral water; noncarbonated water,  
14 including noncarbonated mineral water; carbonated soft drinks;  
15 noncarbonated soft drinks and sport drinks; noncarbonated fruit  
16 drinks that contain any percentage of fruit juice; coffee and tea  
17 drinks; carbonated fruit drinks; and vegetable juice.

18 “Commissioner” means the Commissioner of Environmental  
19 Protection.

20 “Department” means the Department of Environmental  
21 Protection.

22 “Food” means articles used for food or drink for consumption by  
23 humans or other animals, and articles used for components of any  
24 such article.

25 “Glass container” means a container made of glass that is filled  
26 with a food or beverage.

27 “Manufacturer” means a person that: (1) produces or generates a  
28 rigid plastic container, plastic beverage container, glass container,  
29 paper carryout bag, plastic carryout bag, or plastic trash bag that is  
30 sold or offered for sale in the State; or (2) produces or generates a  
31 product that is sold or offered for sale in the State and that is  
32 packaged in a rigid plastic container, plastic beverage container, or  
33 glass container. “Manufacturer” shall not include a person who, at  
34 a single physical location, produces, packages, and sells a product  
35 directly to a consumer at retail, including, but not limited to, a  
36 grocery store, restaurant, bar, cafeteria, café, food truck, food cart,  
37 or similar establishment.

38 “Paper carryout bag” means a bag made of paper that is sold or  
39 provided by a store to a customer for the purpose of containing,  
40 carrying, and transporting food, beverages, or retail goods.

41 “Person” means an individual, corporation, company,  
42 association, society, firm, partnership, or joint stock company.

43 “Plastic” means a synthetic material made from linking  
44 monomers through a chemical reaction to create an organic polymer  
45 chain that can be molded or extruded at high heat into various solid  
46 forms retaining their defined shapes during the life cycle and after  
47 disposal. “Plastic” shall not include material that is designed to be  
48 composted in a municipal or industrial aerobic composting facility

1 and that is certified by a recognized third-party independent  
2 verification body as meeting the standards therefor established by  
3 the American Society for Testing and Materials in ASTM D6400 or  
4 ASTM D6868.

5 “Plastic beverage container” means an individual, separate  
6 bottle, can, jar, carton, or other container made of plastic that is  
7 hermetically sealed or made airtight with a metal or plastic cap, and  
8 that contains a beverage.

9 “Plastic carryout bag” means a bag made of plastic, of any  
10 thickness, whether woven or nonwoven, that is sold or provided by  
11 a store to a customer for the purpose of containing, carrying, and  
12 transporting food, beverages, or retail goods.

13 “Plastic trash bag” means a bag that is made of plastic, is at least  
14 0.70 mils thick, and is designed and manufactured for use as a  
15 container to hold, store, or transport materials to be discarded,  
16 composted, or recycled, and includes, but is not limited to, a  
17 garbage bag, composting bag, lawn or leaf bag, can-liner bag,  
18 kitchen bag, or compactor bag.

19 “Postconsumer recycled content” means a material or product  
20 that has completed its intended end use and product life cycle, and  
21 which has been separated from the solid waste stream for the  
22 purposes of collection and recycling. “Postconsumer recycled  
23 content” shall not include secondary waste material or materials and  
24 by-products generated from, and commonly used within, an original  
25 manufacturing and fabrication process.

26 “Rigid plastic container” means a container made of plastic that  
27 has a relatively inflexible finite shape or form, has a minimum  
28 capacity of eight fluid ounces or its equivalent volume and a  
29 maximum capacity of five fluid gallons or its equivalent volume,  
30 and is capable of maintaining its shape while empty or while  
31 holding other products.

32

33 2. a. A manufacturer shall achieve compliance with the  
34 postconsumer recycled content requirements of this act based on the  
35 average amount of postconsumer recycled content, by weight,  
36 contained in its products. For the first five years after the effective  
37 date of this act, a manufacturer may calculate the average amount of  
38 postconsumer recycled content contained in its products using data  
39 specific to products sold or offered for sale in New Jersey or  
40 nationwide. Beginning five years after the effective date of this act,  
41 a manufacturer shall calculate the average amount of postconsumer  
42 recycled content in its products using data specific to products sold  
43 or offered for sale in New Jersey only. The calculation of averages  
44 may be based on a manufacturer's entire product line or separated  
45 into product sub-lines, provided that all of the manufacturer's  
46 products are accounted for in the calculations.

47 b. For the purposes of this section, “product” means a rigid  
48 plastic container, plastic beverage container, glass container, paper

1 carryout bag, plastic carryout bag, or plastic trash bag that is subject  
2 to the postconsumer recycled content requirements of this act.

3

4 3. a. (1) Beginning two years after the effective date of this  
5 act, all rigid plastic containers sold, offered for sale, or used in  
6 association with the sale or offer for sale of a product in the State  
7 by a manufacturer shall contain, on average, at least 25 percent  
8 postconsumer recycled content.

9 (2) Beginning five years after the effective date of this act, and  
10 every three years thereafter, the percentage of postconsumer  
11 recycled content required for rigid plastic containers pursuant to  
12 this section shall increase by five percent, until reaching 50 percent.

13 b. Beginning two years after the effective date of this act, a  
14 manufacturer shall label each rigid plastic container with the name  
15 of the manufacturer and the city, state, and country where the  
16 manufacturer is located.

17 c. A rigid plastic container shall be exempt from the  
18 postconsumer recycled content requirements of subsection a. of this  
19 section if it:

20 (1) is a plastic beverage container, to which the requirements of  
21 section 4 of this act shall apply;

22 (2) is associated with a product produced in or brought into the  
23 State that is destined for shipment to a destination outside the State,  
24 and that remains with the product upon shipment;

25 (3) contains drugs, dietary supplements, medical devices, or  
26 cosmetics as those terms are defined in the Federal Food, Drug, and  
27 Cosmetic Act, 21 U.S.C. s.301 et seq.;

28 (4) contains toxic or hazardous products regulated under the  
29 “Federal Insecticide, Fungicide, and Rodenticide Act,” 7 U.S.C.  
30 s.136 et seq.;

31 (5) is manufactured for use in the shipment of hazardous  
32 materials and is: (a) prohibited from being manufactured with used  
33 material by federal packaging material specifications set forth in 49  
34 C.F.R. s.178.509 and 49 C.F.R. s.178.522, (b) is subject to the  
35 testing standards set forth in 49 C.F.R. s.178.600 through 49 C.F.R.  
36 s.178.609, or (c) is subject to the recommendations of the United  
37 Nations on the transport of dangerous goods; or

38 (6) is a refillable container or a reusable container. For the  
39 purposes of this paragraph, “refillable container” means a rigid  
40 plastic a container that is routinely returned to and refilled by the  
41 manufacturer with the same product packaged by the container; and  
42 “reusable container” means a rigid plastic container that is routinely  
43 reused by consumers to store the original product packaged by the  
44 container.

45

46 4. a. (1) Beginning two years after the effective date of this  
47 act, all plastic beverage containers sold or offered for sale in the

1 State by a manufacturer shall contain, on average, at least 15  
2 percent postconsumer recycled content.

3 (2) Beginning five years after the effective date of this act, and  
4 every three years thereafter, the amount of postconsumer recycled  
5 content required for plastic beverage containers pursuant to this  
6 section shall increase by five percent, until reaching 50 percent.

7 b. Beginning two years after the effective date of this act, a  
8 manufacturer shall label each plastic beverage container sold or  
9 offered for sale in the State with the name of the manufacturer and  
10 the city, state, and country where the manufacturer is located.

11 c. The provisions of subsection a. of this section shall not  
12 apply to a refillable beverage container. For the purposes of this  
13 subsection, "refillable beverage container" means a beverage  
14 container that holds 150 fluid ounces or less of beverage, and which  
15 is routinely returned to the manufacturer to be refilled and resold.

16

17 5. a. Beginning two years after the effective date of this act, all  
18 glass containers sold or offered for sale in the State by a  
19 manufacturer shall contain, on average, at least 35 percent  
20 postconsumer recycled content; except that, if a manufacturer  
21 certifies to the department that its use of postconsumer recycled  
22 content is made up of at least 50 percent mixed-color cullet, then  
23 the glass containers shall only be required to contain, on average, at  
24 least 25 percent postconsumer recycled content.

25 b. Beginning two years after the effective date of this act, a  
26 manufacturer shall label each glass container sold or offered for sale  
27 in the State with the name of the manufacturer and the city, state,  
28 and country where the manufacturer is located.

29 c. As used in this section, "mixed-color cullet" means cullet  
30 that does not meet the American Society for Testing and Materials  
31 (ASTM) standard specifications for the color mix of color-sorted,  
32 post-filled glass as a raw material for the manufacture of glass  
33 containers.

34

35 6. Beginning two years after the effective date of this act:

36 a. all paper carryout bags sold or offered for sale in the State  
37 by a manufacturer shall contain, on average, at least 40 percent  
38 postconsumer recycled content; except that a paper carryout bag  
39 that holds eight pounds or less shall only be required to contain, on  
40 average, at least 20 percent postconsumer recycled content; and

41 b. a manufacturer shall label each paper carryout bag sold or  
42 offered for sale in the State with the name of the manufacturer and  
43 the city, state, and country where the manufacturer is located.

44

45 7. All plastic carryout bags sold or offered for sale in the State  
46 by a manufacturer shall:

- 1 a. beginning two years after the effective date of this act,  
2 contain, on average, at least 20 percent postconsumer recycled  
3 content;
- 4 b. beginning five years after the effective date of this act,  
5 contain, on average, at least 40 percent postconsumer recycled  
6 content; and
- 7 c. beginning two years after the effective date of this act, be  
8 labeled with the name of the manufacturer and the city, state, and  
9 country where the manufacturer is located.
- 10
- 11 8. a. Beginning two years after the effective date of this act, all  
12 plastic trash bags sold or offered for sale in the State by a  
13 manufacturer shall contain, on average, at least 10 percent  
14 postconsumer recycled content.
- 15 b. Beginning two years after the effective date of this act, a  
16 manufacturer shall label each container of plastic trash bags sold or  
17 offered for sale in the State with the name of the manufacturer and  
18 the city, state, and country where the manufacturer is located.
- 19 c. The provisions of subsection a. of this section shall not  
20 apply to a bag that is designed and manufactured to hold, store, or  
21 transport hazardous waste or regulated medical waste. For the  
22 purposes of this subsection, “hazardous waste” means any solid  
23 waste defined as hazardous waste by the department pursuant to  
24 P.L.1970, c.39 (C.13:1E-1 et seq.); and “regulated medical waste”  
25 means the same as that term is defined in section 3 of P.L.1989,  
26 c.34 (C.13:1E-48.3).
- 27
- 28 9. a. Notwithstanding the provisions of this act to the contrary,  
29 the department may, pursuant to the “Administrative Procedure  
30 Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), review and adjust any  
31 of the postconsumer recycled content requirements established in  
32 sections 3 through 8 of this act. In making an adjustment pursuant  
33 to this section, the department shall consider:
- 34 (1) changes in market conditions, including supply and demand  
35 for postconsumer recycled content, collection rates, and bale  
36 availability both domestically and globally;
- 37 (2) recycling rates, as may be determined by the department;
- 38 (3) the availability of recycled material suitable for  
39 manufacturers to meet the postconsumer recycled content  
40 requirements, including the availability of high-quality recycled  
41 plastic or glass, and food-grade recycled plastic or glass;
- 42 (4) the capacity of recycling or processing infrastructure;
- 43 (5) the progress made by manufacturers in meeting the  
44 postconsumer recycled content requirements; and
- 45 (6) any other factors as determined by the department pursuant  
46 to rule, regulation, or guidance.
- 47 b. Any adjustment to the postconsumer recycled content  
48 requirements made pursuant to this section shall be only for a time-

1 period, and only under such conditions, as the department may by  
2 rule or regulation establish.

3

4 10. a. A package that contain milk products, medical food, or  
5 infant formula shall be exempt from the postconsumer recycled  
6 content requirements of this act for a period of five years beginning  
7 on the effective date of this act. Upon expiration of the five-year  
8 exemption period, a manufacturer of milk products, medical food,  
9 or infant formula may apply to the department for a waiver pursuant  
10 to section 11 of this act.

11 b. As used in this section:

12 “Medical food” and “infant formula” mean the same as those  
13 terms are defined in the Federal Food, Drug, and Cosmetic Act, 21  
14 U.S.C. s.301 et seq.

15 “Milk product” means the same as that term is defined in the  
16 Grade “A” Pasteurized Milk Ordinance promulgated by the United  
17 States Food and Drug Administration.

18

19 11. a. A manufacturer may apply to the department for a waiver  
20 from the postconsumer recycled content requirements established  
21 pursuant to this act. The department may grant a waiver pursuant to  
22 this section if the manufacturer demonstrates, and the department  
23 finds, in writing, that:

24 (1) the manufacturer cannot achieve the postconsumer recycled  
25 content requirements and remain in compliance with applicable  
26 rules and regulations adopted by the United States Food and Drug  
27 Administration, or any other State or federal law, rule, or  
28 regulation;

29 (2) it is not technologically feasible for the manufacturer to  
30 achieve the postconsumer recycled content requirements; or

31 (3) the manufacturer cannot comply for another reason as  
32 determined by the department pursuant to rule, regulation, or  
33 guidance.

34 b. In order to qualify for a waiver from the postconsumer  
35 recycled content requirements of this act, a manufacturer shall  
36 submit to the department documentation from a federal or State  
37 agency or certified third-party expert, as appropriate, demonstrating  
38 that the manufacturer cannot comply with the postconsumer  
39 recycled content requirements for one of the reasons set forth in  
40 subsection a. of this section, and pay a \$1,000 waiver fee. The  
41 department may modify the amount of the waiver fee, pursuant to  
42 the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1  
43 et seq.), as necessary to reflect the department’s costs to administer,  
44 monitor, and enforce the provisions of this section.

45 c. The department may grant a waiver from the postconsumer  
46 recycled content requirements for any period of time as the  
47 department deems appropriate. The department shall publish any  
48 determination to grant a waiver from the postconsumer recycled

1 content requirements on its Internet website. The department shall  
2 develop a standardized form and procedure for manufacturers to  
3 apply for a waiver pursuant to this section.

4  
5 12. a. The department may require a manufacturer that is  
6 exempt from the postconsumer recycled content requirements of  
7 this act, or that has submitted a request for a waiver pursuant to  
8 section 11 of this act, to prepare and submit to the department an  
9 alternative compliance plan that demonstrates that the manufacturer  
10 is taking, and will continue to take, all feasible actions to ensure the  
11 reduction, recycling, and reuse of rigid plastic containers, plastic  
12 beverage containers, glass containers, paper carryout bags, plastic  
13 carryout bags, or plastic trash bags made from virgin plastic, glass,  
14 or paper, as applicable, and the use of postconsumer recycled  
15 content.

16 b. The department shall adopt, pursuant to the “Administrative  
17 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), rules and  
18 regulations setting forth the substantive requirements for an  
19 alternative compliance plan required pursuant to subsection a. of  
20 this section, which may include, but need not be limited to, a  
21 requirement that the manufacturer take alternative measures to  
22 reduce its use of virgin plastics, glass, or paper, including  
23 sustainable materials management protocols, light weighting,  
24 lifecycle analyses, and such other measures as the department may,  
25 by rule or regulation, require.

26 c. The department shall have the authority to approve or  
27 disapprove an alternative compliance plan prepared and submitted  
28 pursuant to this section, and to require a manufacturer to make any  
29 revisions or modifications to its alternative compliance plan as the  
30 department determines necessary, consistent with the provisions of  
31 this act and the rules and regulations adopted by the department.

32 d. A manufacturer shall undertake all of the actions described  
33 in the alternative compliance plan. Failure by a manufacturer to  
34 comply with an approved alternative compliance plan shall  
35 constitute a violation of this act.

36 e. The department may enter into a contract or other legally  
37 binding agreement with one or more trade associations representing  
38 manufacturers, which shall allow the trade association, in lieu of the  
39 manufacturers, to prepare and submit an alternative compliance  
40 plan pursuant to this section and to undertake the actions described  
41 in the alternative compliance plan.

42  
43 13. a. Beginning on the September 1 next following the  
44 effective date of this act, and each September 1 thereafter, each  
45 manufacturer shall register with the department, in a form and  
46 manner as prescribed by the department, and pay an annual  
47 registration fee of \$1,000. The department may modify the amount



1 of the registration fee, pursuant to the “Administrative Procedure  
2 Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), as necessary to reflect  
3 the department’s costs to implement, administer, monitor, and  
4 enforce the provisions of this act. The department shall establish an  
5 electronic registration process on its Internet website; however, the  
6 lack of an electronic registration process shall not negate the  
7 requirement for a manufacturer to register pursuant to this  
8 subsection.

9 b. Notwithstanding the provisions of section 16 of this act to  
10 the contrary, a manufacturer that fails to register with the  
11 department pursuant to subsection a. of this section shall first  
12 receive a written warning. A manufacturer that receives a written  
13 warning shall register with the department no later than 90 days  
14 after receipt of the warning. A manufacturer that receives a written  
15 warning and that fails to register with the department within 90  
16 days of receipt of the warning shall be subject to the penalties set  
17 forth in section 16 of this act.

18

19 14. a. Beginning on the third September 1 after the effective  
20 date of this act, and on each September 1 thereafter, each  
21 manufacturer shall certify, in writing, to the department whether or  
22 not the rigid plastic containers, plastic beverage containers, glass  
23 containers, paper carryout bags, plastic carryout bags, or plastic  
24 trash bags, as applicable, sold, offered for sale, or used in  
25 association with the sale or offer for sale of a product in the State,  
26 are in compliance with the postconsumer recycled content  
27 requirements of this act, or are otherwise exempt or have been  
28 approved for a waiver from the requirements. If the manufacturer  
29 claims an exemption from the requirements of this act, the  
30 manufacturer shall set forth the specific basis upon which the  
31 exemption is claimed, and submit such proof as the department  
32 determines necessary. The certification shall be signed by an  
33 authorized representative of the manufacturer. A manufacturer  
34 shall submit the certification, in the form and manner determined by  
35 the department, under penalty of perjury. The certification shall  
36 include the amount, in pounds, of virgin plastic, glass, or paper and  
37 postconsumer recycled material used by the manufacturer for any  
38 products subject to the requirements of this act, and any other  
39 information as the department deems necessary. The department  
40 shall establish an electronic certification process on its Internet  
41 website; however, the lack of an electronic certification process  
42 shall not negate the requirement for a manufacturer to certify its  
43 compliance pursuant to this subsection.

44 b. Each manufacturer shall maintain records, in a form  
45 prescribed by the department, that demonstrate, for all rigid plastic  
46 containers, plastic beverage containers, glass containers, paper  
47 carryout bags, plastic carryout bags, or plastic trash bags generated  
48 or produced by the manufacturer, whether and how the

1 manufacturer has complied with the postconsumer recycled content  
2 requirements, or whether the manufacturer qualifies for an  
3 exemption or waiver from the postconsumer recycled content  
4 requirements. The department may adopt specific requirements for  
5 the records required to be maintained pursuant to this subsection  
6 and may request the records from a manufacturer at any time. A  
7 manufacturer shall submit records to the department no later than  
8 30 days after receipt of a request, unless the department extends that  
9 timeframe.

10 c. The department may audit or investigate a manufacturer, at  
11 any time, to assess the manufacturer's compliance with the  
12 requirements of this act. Each year, the department shall audit, or  
13 cause to be audited, a random sample of manufacturers in order to  
14 determine compliance with this act. A manufacturer shall cooperate  
15 fully with any audit or investigation conducted pursuant to this  
16 section. The department may require a manufacturer to pay the  
17 costs of an audit conducted pursuant to this subsection.

18 d. The department shall annually publish a list of registered  
19 manufacturers, their compliance status, and other information the  
20 department deems appropriate on the department's Internet website.

21

22 15. a. Beginning two years after the effective date of this act, no  
23 person shall sell or offer for sale in the State any polystyrene loose  
24 fill packaging.

25 b. As used in this section:

26 "Polystyrene foam" means blown polystyrene and expanded and  
27 extruded foams that are thermoplastic petrochemical materials  
28 utilizing a styrene monomer and processed by a number of  
29 techniques, including, but not limited to, fusion of polymer spheres  
30 (expandable bead polystyrene), injection molding, foam molding,  
31 and extrusion-blow molding (extruded foam polystyrene).

32 "Polystyrene loose fill packaging," commonly known as packing  
33 peanuts, means a void-filling packaging product made of  
34 polystyrene foam that is used as a packaging fill.

35

36 16. a. Whenever, on the basis of available information, the  
37 commissioner finds that a person is in violation of this act, the  
38 commissioner may:

39 (1) issue an order in accordance with subsection b. of this  
40 section requiring the person to comply;

41 (2) bring a civil action in accordance with subsection c. of this  
42 section;

43 (3) levy a civil administrative penalty in accordance with  
44 subsection d. of this section;

45 (4) bring an action for a civil penalty in accordance with  
46 subsection e. of this section; or

47 (5) require a manufacturer to submit a corrective action plan  
48 pursuant to subsection f. of this section.

1       The exercise of any of the remedies provided in this section shall  
2 not preclude recourse to any other remedy so provided.

3       b. Whenever, on the basis of available information, the  
4 commissioner finds that a person is in violation of this act, the  
5 commissioner may issue an order: (1) specifying the provision or  
6 provisions of this act, or the rule or regulation adopted pursuant  
7 thereto, of which the person is in violation; (2) citing the action that  
8 caused the violation; (3) requiring compliance with the provision of  
9 this act or the rule or regulation adopted pursuant thereto of which  
10 the person is in violation; and (4) giving notice to the person of his  
11 right to a hearing on the matters contained in the order.

12       c. The commissioner is authorized to commence a civil action in  
13 Superior Court for appropriate relief from a violation of this act.  
14 This relief may include an assessment against the violator for the  
15 costs of any investigation, inspection, or audit that led to the  
16 discovery and establishment of the violation, and for the reasonable  
17 costs of preparing and litigating the case under this subsection.

18       d. (1) The commissioner is authorized to impose a civil  
19 administrative penalty of not less than \$1,000 and not more than  
20 \$100,000 for each violation of this act or any rule or regulation  
21 adopted pursuant thereto, and each day of the violation shall  
22 constitute an additional, separate, and distinct offense. Any amount  
23 imposed under this subsection shall be assessed pursuant to rules  
24 and regulations adopted by the commissioner for violations of  
25 similar type, seriousness, and duration. The commissioner shall  
26 have the authority to assess penalties prior to the establishment of  
27 rules and regulations governing penalties to the extent that such  
28 penalties are reasonable and based on other violations of a similar  
29 type, seriousness, and duration. No civil administrative penalty  
30 shall be imposed until after the person has been notified by certified  
31 mail or personal service. The notice shall include: a reference to  
32 the section of the act, rule, regulation, order, or permit violated; a  
33 concise statement of the facts alleged to constitute a violation; a  
34 statement of the amount of the civil administrative penalties to be  
35 imposed; and a statement of the person's right to a hearing. The  
36 person shall have 20 days from receipt of the notice within which to  
37 deliver to the commissioner a written request for a hearing.  
38 Subsequent to the hearing and upon finding that a violation has  
39 occurred, the commissioner may issue a final order or civil  
40 administrative penalty after imposing the amount of the fine  
41 specified in the notice. If no hearing is requested, the notice shall  
42 become a final order or a final civil administrative penalty upon the  
43 expiration of the 20-day period. Payment of the penalty is due  
44 when a final order is issued or when the notice becomes a final  
45 order or a final civil administrative penalty. The authority to levy a  
46 civil administrative penalty is in addition to all other enforcement  
47 provisions in this act, and the payment of a civil administrative  
48 penalty shall not be deemed to affect the availability of any other

1 enforcement provision in connection with the violation for which  
2 the penalty is levied. A civil administrative penalty imposed under  
3 this subsection may be compromised by the commissioner upon the  
4 posting of a performance bond by the violator, or upon terms and  
5 conditions the commissioner may establish by rule or regulation.

6 (2) In addition to the assessment of a civil administrative  
7 penalty, the commissioner may, by administrative order and upon  
8 an appropriate finding, assess a violator for the reasonable costs of  
9 any investigation, inspection, or audit which led to the  
10 establishment of the violation.

11 e. Any person who violates this act, an order issued pursuant to  
12 subsection b. of this section, or a court order issued pursuant to  
13 subsection c. of this section, or who fails to pay in full a civil  
14 administrative penalty levied pursuant to subsection d. of this  
15 section, shall be subject, upon order of a court, to a civil penalty not  
16 to exceed \$100,000. Any penalty imposed pursuant to this  
17 subsection may be collected, and any costs incurred in connection  
18 therewith may be recovered, in a summary proceeding pursuant to  
19 the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-  
20 10 et seq.). The Superior Court and the municipal court shall have  
21 jurisdiction to enforce the "Penalty Enforcement Law of 1999."

22 f. The department is authorized to require a manufacturer that  
23 violates the provisions of this act, or any rule or regulation adopted  
24 pursuant thereto, to submit a corrective action plan describing how  
25 the manufacturer intends to come into compliance with the  
26 provisions of this act. The department shall adopt, pursuant to the  
27 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
28 seq.), rules and regulations setting forth the substantive  
29 requirements for corrective action plans.

30 g. In addition to the penalties and remedies provided above, a  
31 person who knowingly, purposely, or recklessly makes a false or  
32 misleading statement on any certification or registration submitted  
33 to the department pursuant to this act shall, upon conviction, be  
34 guilty of a crime of the third degree and, notwithstanding the  
35 provisions of N.J.S.2C:43-3, shall be subject to a fine of not more  
36 than \$50,000 and restitution. The department shall refer the  
37 provider of any false or misleading statement to the Attorney  
38 General for prosecution.

39  
40 17. Any proprietary information or trade secrets included in any  
41 registration, certification, alternative compliance plan, corrective  
42 action plan, or any other record submitted to the department  
43 pursuant to this act shall not be made available to the general public  
44 pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.), commonly known as  
45 the open public records act.

46  
47 18. a. There is established in the Department of the Treasury a  
48 special, nonlapsing account to be known as the "Recycling

1 Enhancement Penalty Account.” The account shall be credited with  
2 all penalties collected pursuant to section 16 of this act, and any  
3 interest or investment income earned on monies in the account.  
4 Moneys in the account may be utilized by the department for  
5 administrative expenses incurred in connection with the  
6 enforcement or implementation of this act, for the public education  
7 program required pursuant to subsection b. of this section, and for  
8 other efforts to support recycling markets in the State as the  
9 department may determine.

10 b. The department, in consultation with the Association of New  
11 Jersey Recyclers and the organization under contract with the  
12 department to administer the Clean Communities Program pursuant  
13 to section 6 of P.L.2002, c.128 (C.13:1E-218), shall develop and  
14 implement a Statewide public information and education program to  
15 encourage, support, and increase the recycling of rigid plastic  
16 containers, plastic beverage containers, glass containers, paper  
17 carryout bags, plastic carryout bags, and any other containers or  
18 packaging products, which may include, but need not be limited to,  
19 television, radio, and print advertisements, signage, or classroom  
20 education.

21  
22 19. A municipality or county shall not adopt any rule,  
23 regulation, code, or ordinance regulating the postconsumer recycled  
24 content of rigid plastic containers, plastic beverage containers, glass  
25 containers, paper carryout bags, plastic carryout bags, or plastic  
26 trash bags after the effective date of this act. The provisions of this  
27 act shall supersede and preempt any municipal or county rule,  
28 regulation, code, or ordinance regulating the recycled content of  
29 rigid plastic containers, plastic beverage containers, glass  
30 containers, paper carryout bags, plastic carryout bags, or plastic  
31 trash bags that was enacted prior to the effective date of this act.

32  
33 20. Nothing in this act shall be construed to impose liability on  
34 any news media that accept or publish advertising for any product  
35 that would otherwise be subject to the provisions of this act.

36  
37 21. Nothing in this act shall be construed to alter, limit, or  
38 otherwise affect any of the provisions of P.L.2020, c.117 (C.13:1E-  
39 99.126 et al.).

40  
41 22. a. The department shall adopt, pursuant to the  
42 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et  
43 seq.), rules and regulations necessary for the implementation of this  
44 act.

45 b. Prior to the adoption of rules and regulations, and as  
46 necessary thereafter, the department may develop guidance as  
47 necessary for the implementation of this act.

1       23. No later than five years after the effective date of this act,  
2 the Advisory Council on Solid Waste Management, established  
3 pursuant to section 7 of P.L.1970, c.39 (C.13:1E-7), shall prepare  
4 and submit a report to the Governor, to the Legislature pursuant to  
5 section 2 of P.L.1991, c.164 (C.52:14-19.1), and to the members of  
6 the Senate Environment and Energy Committee and the Assembly  
7 Environment and Solid Waste Committee, or their successors,  
8 assessing the implementation of this act, evaluating the act's  
9 effectiveness in stimulating the recycling markets in the State, and  
10 making any recommendations for legislative or administrative  
11 action necessary to further the purposes of this act, including  
12 recommendations for whether and how the State should encourage,  
13 require, or support other uses of recycled material.

14

15       24. This act shall take effect immediately.