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**AB-1325 Lubricants and waste oil: producer responsibility.** (2025-2026)

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AMENDED IN ASSEMBLY MARCH 24, 2025

CALIFORNIA LEGISLATURE— 2025–2026 REGULAR SESSION

**ASSEMBLY BILL**

**NO. 1325**

Introduced by Assembly Member ~~Flora~~ *Michelle Rodriguez*

February 21, 2025

An act to ~~amend Section 30234 of the Public Resources Code, relating to coastal resources.~~ *add Section 42042 to, to add Article 11 (commencing with Section 48692) to Chapter 4 of Part 7 of Division 30 of, and to add Chapter 4.5 (commencing with Section 48695) to Part 7 of Division 30 of, the Public Resources Code, relating to solid waste.*

**LEGISLATIVE COUNSEL'S DIGEST**

AB 1325, as amended, ~~Flora Michelle Rodriguez. California Coastal Act of 1976: commercial fishing and recreational boating.~~ *Lubricants and waste oil: producer responsibility.*

*(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.*

*The California Integrated Waste Management Act of 1989, which is administered by the Department of Resources Recycling and Recovery (CalRecycle), requires a city and a county to prepare and submit to CalRecycle a countywide integrated waste management plan. The act requires the plan to include a household hazardous waste element that identifies a program in each city and county for the safe collection, recycling, treatment, and disposal of hazardous wastes that are generated by households.*

*The California Oil Recycling Enhancement Act, administered by CalRecycle, establishes a used oil recycling program to promote and develop alternatives to illegal disposal of used oil. The act imposes a charge for every gallon of lubricating oil sold or transferred in the state, or imported into the state for use in the state, as specified. The act requires these charges to be deposited into the California Used Oil Recycling Fund, which is continuously appropriated to, among others, pay recycling incentives and to implement local used oil collection programs, as provided.*

*This bill would make the act, as amended by this bill, inoperative upon the completion of specified conditions, including that CalRecycle submits a letter to the relevant committees of the Legislature indicating that specified conditions have been met and that CalRecycle is prepared to implement a lubricant and waste oil responsibility program as discussed below.*

*This bill would create a producer responsibility program for lubricants and waste oil and require a producer responsibility organization (PRO) to provide a convenient collection and management system for covered products at no cost to residents or local governments. The bill would define "covered product" to mean a petroleum-based automotive product and other related products, 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 CalRecycle, in coordination with DTSC, to adopt regulations to implement the program with an effective date no earlier than July 1, 2028.*

*This bill would require the PRO, within 12 months of the effective date of the regulations, to submit a product responsibility plan to CalRecycle. The bill would require the plan to include specified elements, including a funding mechanism that provides sufficient funding to carry out the plan. The bill would require, within 6 months of receipt of the plan, CalRecycle, in collaboration with DTSC, to approve, approve in part, or disapprove the plan, as specified. The bill would require CalRecycle to notify the PRO of its decision. If CalRecycle does not approve the plan in full, then the bill would require CalRecycle 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 CalRecycle does not approve, approve in part, or disapprove a plan within one year of receipt of the plan.*

*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.*

*This bill would require the PRO to prepare and submit to CalRecycle 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 CalRecycle for review, as specified. The bill would require all reports and records provided to CalRecycle pursuant to the program to be provided under the penalty of perjury. By expanding the scope of a crime, the bill would impose a state-mandated local program.*

*This bill would require a participant producer, through the PRO, to pay CalRecycle, on an unspecified schedule, an annual administrative charge, as determined by CalRecycle and DTSC. The bill would require the charge be set at an amount that is adequate to cover CalRecycle's and DTSC's actual and reasonable 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 Lubricant and Waste Oil Producer Responsibility Fund in the State Treasury and would require the administrative charges collected by CalRecycle to be deposited into that fund for expenditure by CalRecycle, upon appropriation by the Legislature, to cover CalRecycle's cost to implement the program. The bill would also establish the Lubricant and Waste Oil Penalty Account in the Lubricant and Waste Oil Producer Responsibility Fund and would require that the civil penalties collected by CalRecycle pursuant to the program be deposited into that account, for expenditure by CalRecycle, 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.*

*(2) 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. The act requires producers, either individually or through participation in a producer responsibility organization, to have an approved plan that, among other things, describe how the producer or organization will comply with the act.*

*This bill would exempt a product from the act if the product is included in an approved product responsibility plan pursuant to the lubricant and waste oil producer responsibility program, discussed above.*

*(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.*

~~*The California Coastal Act of 1976 provides for the planning and regulation of development within the coastal zone, as defined. The act requires facilities serving the commercial fishing and recreational boating industries to be protected and, where feasible,*~~

~~upgraded, and prohibits existing commercial fishing and recreational boating harbor space from being reduced unless the demand for those facilities no longer exists or adequate substitute space has been provided.~~

~~This bill would make nonsubstantive changes to the latter provision.~~

Vote: majority Appropriation: no Fiscal Committee: ~~no~~yes Local Program: ~~no~~yes

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## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** Section 42042 is added to the Public Resources Code, to read:

**42042.** This chapter does not apply to a covered product if the covered product is included in an approved producer responsibility plan pursuant to the Lubricant and Waste Oil Producer Responsibility Act of 2025 (Chapter 4.5 (commencing with Section 48695) of Part 7).

**SEC. 2.** Article 11 (commencing with Section 48692) is added to Chapter 4 of Part 7 of Division 30 of the Public Resources Code, to read:

### **Article 11. Operation**

**48692.** This chapter shall become inoperative when all the following are met:

- (a) The board has adopted regulations pursuant to Section 48695.02.
- (b) The board has approved a producer responsibility plan, as defined by Section 48695.04, for the purposes of Chapter 4.5 (commencing with Section 48695).
- (c) The board has provided notice to the producer responsibility organization of its intent to send the letter described in subdivision (d) at least 90 days before sending the letter.
- (d) The board has submitted to the relevant committees of the Legislature, in conformance with Section 9795 of the Government Code, a letter indicating that the conditions in subdivisions (a) to (c), inclusive, have been met, that the board is prepared to implement Chapter 4.5 (commencing with Section 48695), and that the producer responsibility organization is prepared to implement the producer responsibility plan. The board shall post the letter on its internet website.

**SEC. 3.** Chapter 4.5 (commencing with Section 48695) is added to Part 7 of Division 30 of the Public Resources Code, to read:

### **CHAPTER 4.5. Lubricant and Waste Oil Producer Responsibility Act of 2025**

#### **Article 1. General Provisions and Definitions**

**48695.** (a) This chapter shall be known, and may be cited, as the Lubricant and Waste Oil Producer Responsibility Act of 2025.

(b) The purpose of this chapter is to provide for the safe and proper management of used oil, automotive fluids, lubricant products, and the packaging containing these products, which is costly for California's local governments, and may cause significant damage to the environment when managed improperly.

**48695.02.** (a) (1) Except as provided in Section 48695.30, CalRecycle, in coordination with DTSC, shall adopt, amend, or repeal, in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), regulations to implement this chapter. CalRecycle shall not adopt regulations pursuant to this section with an effective date earlier than January 1, 2028.

(2) As part of the regulations, CalRecycle shall establish methodologies to determine a baseline amount of covered products improperly disposed of or dumped and to measure progress towards meeting the performance-based standards in Section 48695.32.

(b) On or before January 1, 2028, DTSC shall establish and post on its internet website a list of covered products.

(c) On or before January 1, 2028, CalRecycle shall approve one producer responsibility organization that meets the requirements of this chapter.

(d) When CalRecycle updates its material characterization study pursuant to subdivision (d) of Section 42355.51 in 2028, CalRecycle shall also include the following information:

- (1) The amount of covered products being improperly disposed of or dumped.

(2) The amount of covered products being properly collected and managed through a hazardous waste facility.

**48695.04.** For purposes of this chapter, the following definitions apply:

(a) (1) "Approved plan" means a producer responsibility plan that has been approved by CalRecycle pursuant to Section 48695.30 and that has not been revoked by CalRecycle pursuant to Section 48695.64.

(2) A conditionally approved plan is an approved plan, except as used in Section 48695.30.

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

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

(c) "CalRecycle" means the Department of Resources Recycling and Recovery.

(d) "Consumer" means a purchaser, owner, or lessee of a covered product, including a person, business, corporation, limited partnership, nonprofit organization, or governmental entity.

(e) "Contact information" means a name, physical address, mailing address, email address, and phone number.

(f) (1) "Covered product" means a petroleum-based automotive product and other related products, including, but not limited to, antifreeze, engine additives, engine oils, fuel additives, greases, marine lubricants, transmission and gear oils, two-cycle oils, and other fluids commercially available to a nonbusiness consumer.

(2) "Covered product" includes the packaging for any covered product.

(g) "DTSC" means the Department of Toxic Substances Control.

(h) "Importer" means either of the following:

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

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

(i) "Participant producer" means a producer that is registered with the producer responsibility organization.

(j) (1) "Producer" means a person who manufactures a covered product and who sells, offers for sale, or distributes a covered product into the state under the person's own name or brand.

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

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

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

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

(k) "Producer responsibility organization" means an organization that is exempt from taxation under Section 501(c)(3) of the federal Internal Revenue Code of 1986 that is appointed by one or more producers to act as an agent on behalf of the producers to design, submit, and administer a producer responsibility organization pursuant to this chapter.

(l) "Producer responsibility plan" means the plan developed by a producer responsibility organization for the collection, transportation, and the safe and proper management of covered products pursuant to Article 4 (commencing with Section 48695.30) and submitted to CalRecycle for approval pursuant to Section 48695.30.

(m) "Sell" or "sales" means a transfer of title of a covered product for consideration, including a remote sale conducted through a sales outlet, catalog, internet website, online marketplace, or similar electronic means. For purposes of this chapter, "sell" or "sales" includes a lease through which a covered product is provided to a consumer by a manufacturer, wholesaler, or retailer.

**48695.06.** This chapter does not apply to a covered product if the covered product is included in an approved producer responsibility plan pursuant to another producer responsibility program, including, but not limited to, the Plastic Pollution Prevention and Packaging Producer Responsibility Act (Chapter 3 (commencing with Section 42040) of Part 3).

## **Article 2. Producers**

**48695.10.** (a) No later than 90 days after CalRecycle's approval of the producer responsibility organization, pursuant to subdivision (c) of Section 48695.02, a producer shall register with the producer responsibility organization.

(b) No later than 30 days after the effective date of the regulations described in Section 48695.02, a producer, or the producer responsibility organization on behalf of the producer, shall notify CalRecycle electronically that the producer has registered with the producer responsibility organization.

(c) A producer shall register with the producer responsibility organization in accordance with the procedures and requirements established by the producer responsibility organization.

(d) Upon approval of a producer responsibility plan pursuant to Section 48695.30, a producer shall not sell, offer for sale, import, or distribute a covered product in the state unless all of the following conditions are met:

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

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

(3) CalRecycle has approved the producer responsibility plan.

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

**48695.12.** (a) No later than 180 days after the effective date of the regulations described in Section 48695.02, a producer shall provide to CalRecycle and DTSC, in a form and manner jointly established by CalRecycle and DTSC, both of the following:

(1) The producer's contact information.

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

(b) A producer shall provide to CalRecycle and DTSC updates to the information described in subdivision (a) on or before January 15 of each year, within 30 days of changes to the contact information or list, and upon CalRecycle's or DTSC's request.

## **Article 3. Producer Responsibility Organizations**

**48695.20.** The producer responsibility organization shall have a governing board consisting of participant producers that represent the diversity of covered products.

**48695.22.** If CalRecycle determines that the producer responsibility organization no longer meets the requirements of this chapter or fails to implement or administer an approved plan in a manner that effectuates the purposes of this chapter, CalRecycle may revoke its approval of the producer responsibility plan pursuant to Section 48695.64 and may approve a producer responsibility plan submitted by another producer responsibility organization.

**48695.24.** The producer responsibility organization shall notify CalRecycle within 30 calendar days of any of the following:

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

(b) The date that a producer no longer participates in the producer responsibility organization's approved plan.

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

**48695.26.** Within 24 months of the effective date of the regulations described in Section 48695.02, the producer responsibility organization with an approved plan shall provide a convenient collection and management system for covered products at no cost to residents or local governments.

**48695.28.** The producer responsibility organization may conduct a needs assessment to determine appropriate strategies and investments needed to meet the requirements of this chapter.

**Article 4. Producer Responsibility Plans**

**48695.30.** (a) Within 12 months of the effective date of the regulations described in Section 48695.02, the producer responsibility organization shall develop and submit a proposed producer responsibility plan to CalRecycle, in a form and manner determined by CalRecycle.

(b) (1) Within six months of receipt of a proposed producer responsibility plan, CalRecycle, in collaboration with DTSC, shall approve, approve in part, or disapprove the producer responsibility plan.

(2) CalRecycle and DTSC shall jointly determine a process for approving the producer responsibility plan and any other information submitted in compliance with this chapter to ensure that CalRecycle and DTSC each retain oversight commensurate with its jurisdiction and authority and to minimize the cost and burden to producers. DTSC shall be responsible for the approval of producer responsibility plan components related to safe handling, transportation, and management of covered products.

(3) Within four months of receiving the producer responsibility plan, DTSC shall review and approve, approve in part, or disapprove the producer responsibility plan components related to safe handling, transportation, and management of covered products. If DTSC approves in part or disapproves any producer responsibility plan components, DTSC shall notify the producer responsibility organization of changes necessary for plan approval, and DTSC and the producer responsibility organization shall follow the process outlined in paragraph (4). Within three days of DTSC approving the producer responsibility plan components, it shall notify CalRecycle.

(4) CalRecycle shall not approve the producer responsibility plan until it receives approval of the producer responsibility plan components from DTSC pursuant to paragraphs (2) and (3). Within four months after being notified by DTSC that it has approved the producer responsibility plan components, CalRecycle shall approve, approve in part, or disapprove the producer responsibility plan. In making a determination pursuant to this subdivision, CalRecycle or DTSC may solicit information from producers, other agencies or departments, or stakeholders, as it deems appropriate.

(c) If CalRecycle approves a proposed producer responsibility plan, a revised producer responsibility plan, or a conditionally approved plan, then CalRecycle shall notify the producer responsibility organization of the approval. The producer responsibility organization shall implement the approved plan within 90 days of receipt of the notice of approval, or as otherwise agreed to by CalRecycle.

(d) If CalRecycle disapproves a proposed producer responsibility plan or a revised producer responsibility plan, then CalRecycle shall notify the producer responsibility organization of the disapproval and specify the reasons for disapproval. Within 30 days of receipt of notice of disapproval, the producer responsibility organization shall submit a revised producer responsibility plan.

(e) (1) If CalRecycle approves a proposed producer responsibility plan or a revised producer responsibility plan in part, then CalRecycle shall notify the producer responsibility organization of the partial approval and identify the portions of the producer responsibility plan that do not comply with this chapter.

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

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

(f) Within 30 days of receipt of a revised producer responsibility plan, CalRecycle shall approve, approve in part, or disapprove the revised producer responsibility plan.

(g) If CalRecycle has not approved, approved in part, or disapproved a producer responsibility plan within one year of receipt of the producer responsibility plan, then the producer responsibility plan shall be deemed conditionally approved and CalRecycle shall notify the producer responsibility organization of the conditional approval.

(h) CalRecycle may impose additional requirements for any portion of a proposed producer responsibility plan, a revised producer responsibility plan, or a conditionally approved plan that does not comply with this chapter and that has not been approved.



(i) When reviewing a proposed producer responsibility plan, a revised producer responsibility plan, or a conditionally approved plan, CalRecycle or DTSC may solicit information from producers, other agencies or departments, or stakeholders, as CalRecycle or DTSC deems appropriate.

(j) CalRecycle or DTSC may review an approved plan or a conditionally approved plan at any time. If CalRecycle or DTSC finds that an approved plan or a conditionally approved plan is deficient, then it may recommend modifications.

(k) Any substantial changes to an approved plan shall be submitted to CalRecycle for approval.

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

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

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

(m) Within 24 months of the effective date of the regulations described in Section 48695.02, a producer responsibility organization shall have a producer responsibility plan approved or conditionally approved by CalRecycle, and each producer shall be subject to an approved plan or conditionally approved plan.

**48695.32.** A producer responsibility plan shall do all of the following:

(a) Be designed to ensure the safe and convenient collection and management of covered products and to ensure both of the following performance-based standards are met:

(1) The producer responsibility organization shall decrease the aggregate percentage of covered products improperly disposed of or dumped by 20 percent by 2032, as measured against the baseline determined pursuant to Section 48695.02.

(2) The producer responsibility organization shall decrease the aggregate percentage of covered products improperly disposed of or dumped by 40 percent by 2035, as measured against the baseline determined pursuant to Section 48695.02.

(b) Include strategies to ensure elderly consumers, disabled consumers, and any other consumers with limited mobility have access to the safe and proper collection and management of covered products, including opportunities to have covered products collected.

(c) Include the contact information of each participant producer.

(d) Include a financial section that demonstrates how the producer responsibility organization will comply with Section 48695.40, including, but not limited to, a five-year budget that demonstrates how the producer responsibility organization will comply with subdivision (b) of Section 48695.40.

(e) Include a section describing the producer responsibility organization's contingency plan in the event the producer responsibility plan expires or is revoked. The contingency plan shall guarantee that all the contracts, financial data, and any other necessary authority and assets to operate the program shall vest in a trustee approved by CalRecycle. The trustee shall operate the most recently approved plan, subject to the direction of CalRecycle, until that time as a new producer responsibility plan is approved. Upon expiration or revocation of the producer responsibility plan, the balance of the producer responsibility organization's operating reserves collected shall be transferred to the control of the trustee within five calendar days. All documents, digital records, contracts, and files related to the operation of the producer responsibility plan shall be transferred to the control of the trustee within five calendar days.

(f) Include a section describing a comprehensive statewide education and outreach program designed to educate consumers and promote participation in the program offered by the producer responsibility organization. The comprehensive statewide education and outreach program shall do all of the following:

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

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

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

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

(g) Include a description on how the producer responsibility organization will leverage and use existing collection programs and infrastructure.

**48695.34.** (a) The producer responsibility organization shall review its approved plan at least every five years and determine whether revisions are necessary.

(b) If the producer responsibility organization determines that revisions to its approved plan are necessary, the producer responsibility organization shall submit to CalRecycle a revised producer responsibility plan for review and approval using the procedures set forth in Section 48695.30. The producer responsibility organization shall submit the revised producer responsibility plan to CalRecycle at least 12 months before the review deadline outlined in subdivision (a). The revised producer responsibility plan shall include a cover letter that summarizes the revisions to the producer responsibility plan.

(c) If the producer responsibility organization determines that no revisions to the producer responsibility plan are necessary, the producer responsibility organization shall send a letter to CalRecycle 12 months before the review deadline outlined in subdivision (a) explaining that the producer responsibility organization has reviewed the producer responsibility plan and determined that no revisions are needed. CalRecycle may disapprove the producer responsibility organization's determination within 30 days of receipt of the letter if CalRecycle concludes that the producer responsibility organization cannot implement the objectives of this chapter without revising the producer responsibility plan. If CalRecycle disapproves the producer responsibility organization's determination, CalRecycle may indicate to the producer responsibility organization which sections of the producer responsibility plan need revision and the producer responsibility organization shall submit to CalRecycle a revised producer responsibility plan, or producer responsibility plan sections, for review and approval, following the procedures set forth in Section 48695.30. The producer responsibility organization shall submit the revised producer responsibility plan pursuant to this subdivision within 60 days of receipt of CalRecycle's disapproval.

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

#### **Article 5. Financial Provisions**

**48695.40.** The producer responsibility organization shall do all of the following:

(a) (1) Establish a method for fully funding its producer responsibility plan in a manner that equitably distributes the producer responsibility plan's costs among participant producers in a manner that reflects sales volumes, adjusted to account for the cost to manage the covered products that each participant producer is responsible for and the relative toxicity of each covered product.

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

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

(B) Actions taken by the participant producer, including clear and accurate disposal, recycling or composting, or reuse and refill labeling and instructions, that improve consumer behavior related to sorting and proper disposal of the covered product.

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

(2) Administrative costs shall include the actual and reasonable regulatory costs incurred by CalRecycle and DTSC, which includes full personnel costs, to implement and enforce this chapter, consistent with the regulations described in Section 48695.02. For purposes of this paragraph, producer responsibility organization implementation begins upon approval of its



producer responsibility plan, except that costs shall include actual and reasonable regulatory development costs and other startup costs incurred before a producer responsibility plan's submittal and approval.

(3) The reserve shall include funds to operate the producer responsibility organization if there are unexpected events, losses of income, or large unbudgeted expenses. The reserve shall also protect the infrastructure that the producer responsibility organization relies on in its producer responsibility plan during any lapse in producer participation during the life of the program. The reserve cost category shall include a reserve level amount description justifying the reserve level amount indicated. The producer responsibility organization shall maintain reserve funds sufficient to operate the producer responsibility plan for not less than six months. When a new producer responsibility organization is approved by CalRecycle, the producer responsibility organization shall establish its reserve and maintain the required reserve fund balance by the end of the second year of producer responsibility plan operation. If the producer responsibility plan expires or is revoked, the reserve balance shall be transferred to a successor producer responsibility organization or a trustee pursuant to the portion of the producer responsibility plan described in subdivision (e) of Section 48695.32.

(c) On a schedule determined by CalRecycle, pay CalRecycle fees to cover CalRecycle's and DTSC's actual and reasonable regulatory costs, as described in Section 48695.44.

(d) Establish a process by which the financial activities of the producer responsibility organization that are related to implementation of the producer responsibility plan will be subject to an independent audit consistent with generally accepted accounting principles and pursuant to Section 48695.54.

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

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

**48695.42.** Each participant producer shall, through the producer responsibility organization, pay all administrative and operational costs associated with establishing and implementing the producer responsibility organization's approved plan, including the cost of the collection, transportation, and safe and proper management of covered products.

**48695.44.** (a) Within four months of the effective date of the regulations described in Section 48695.02, CalRecycle shall notify the producer responsibility organization of the estimated regulatory costs for CalRecycle and DTSC and the criteria for the costs specified in the regulations. Those costs shall include the costs associated with developing the regulations and other CalRecycle and DTSC activities that occur before a producer responsibility plan's submittal and approval, including, but not limited to, full personnel costs related to implementing and enforcing this chapter. The costs shall not exceed CalRecycle's and DTSC's actual and reasonable regulatory costs to implement and enforce this chapter.

(b) CalRecycle shall deposit all moneys received from the producer responsibility organization pursuant to this section into the Lubricant and Waste Oil Producer Responsibility Fund, which is hereby established in the State Treasury.

(c) Upon appropriation by the Legislature, moneys in the Lubricant and Waste Oil Producer Responsibility Fund shall be expended by CalRecycle to implement and enforce this chapter and to reimburse any outstanding loans made from other funds used to finance the development of the regulations and the startup costs of CalRecycle's activities pursuant to this chapter.

(d) The moneys in the Lubricant and Waste Oil Producer Responsibility Fund shall only be expended for those purposes described in subdivision (c).

**48695.46.** (a) If the producer responsibility plan relies on a local jurisdiction to collect or manage a covered product, or to otherwise comply with Section 48695.26, then the producer responsibility organization shall reimburse the local jurisdiction for the costs associated with the collection and management of the covered product.

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

## **Article 6. Records, Audits, and Reports**

**48695.50.** (a) The producer responsibility organization shall keep board minutes, books, and records that clearly reflect the activities and transactions of the producer responsibility organization for a period of not less than five years.

(b) CalRecycle may audit the producer responsibility organization annually.

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

**48695.52.** (a) A producer and the producer responsibility organization shall do both of the following:

(1) Upon request, provide CalRecycle with reasonable and timely access, as determined by CalRecycle, to its facilities and operations, as necessary to determine compliance with this chapter.

(2) Within 14 days of a request from CalRecycle, provide CalRecycle with relevant records, as determined by CalRecycle, necessary to determine compliance with this chapter.

(b) All reports and records provided to CalRecycle pursuant to this chapter shall be provided under penalty of perjury.

(c) CalRecycle may impose administrative civil penalties pursuant to Article 7 (commencing with Section 48695.60) on a producer or producer responsibility organization that fails to provide CalRecycle with the access required pursuant to this section.

**48695.54.** (a) The producer responsibility organization shall retain an independent certified public accountant, certified in the United States, to annually audit the accounting books of the producer responsibility organization. CalRecycle shall review the independent certified public accountant's audit for compliance with this chapter and consistency with the producer responsibility organization's approved plan and the annual report required by Section 48695.56. After CalRecycle conducts its own review, CalRecycle shall notify the producer responsibility organization of any conduct or practice that does not comply with this chapter or of any inconsistencies identified in the review. The producer responsibility organization may obtain copies of CalRecycle's review, including proprietary information contained in CalRecycle's review, upon request. The producer or producer responsibility organization may request CalRecycle withhold from disclosure confidential proprietary information to the extent allowed under Section 1040 of the Evidence Code and the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

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

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

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

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

(c) The producer responsibility organization shall include the independent audit in its annual report submitted to CalRecycle pursuant to Section 48695.56 commencing within 18 months of the producer responsibility plan's approval by CalRecycle.

**48695.56.** On or before January 1 of each year, the producer responsibility organization shall submit to CalRecycle, and make publicly available, an annual report, in a format prescribed by CalRecycle, that includes, at minimum, all of the following information for the preceding calendar year, unless otherwise specified:

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

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

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

(d) Updated contact information for participant producers.

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

(f) A summary of efforts made as part of the comprehensive statewide education and outreach program, as required by subdivision (f) of Section 48695.32, including the producer responsibility organization's evaluation of the effectiveness of the program.

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

(h) Any other information required by the regulations described in Section 48695.02.

**48695.58.** (a) No later than 120 days after the date CalRecycle receives an annual report pursuant to Section 48695.56, CalRecycle shall notify the producer responsibility organization if the annual report is compliant or noncompliant.

(b) If CalRecycle determines that the annual report is noncompliant due to failure to meet the requirements of this chapter, CalRecycle may require the resubmittal of the annual report and take enforcement action.

(c) CalRecycle may consult with or submit the annual report to a state agency or department if it determines it is necessary to determine the annual report's compliance or noncompliance. The duration of time CalRecycle takes for this consultation shall not be included in the time allotted to CalRecycle for review pursuant to subdivision (a).

**Article 7. Enforcement**

**48695.60.** A retailer, dealer, importer, or distributor shall not sell, distribute, offer for sale, or import a covered product in or into the state unless the producer of the covered product is listed as a compliant producer pursuant to Section 48695.62 or received a certification letter described in subdivision (e) of Section 48695.62.

**48695.62.** (a) Within 12 months of the effective date of the regulations described in Section 48695.02, and on or before July 1 of each year thereafter, CalRecycle shall publish on CalRecycle's internet website, a list of the names of producers that are compliant with this chapter. CalRecycle shall list, as appropriate, the reported brands of covered products for each producer.

(b) A retailer, importer, or distributor shall monitor CalRecycle's internet website to determine if a producer, brand, or covered product is in compliance with this chapter.

(c) Notwithstanding any other provision of this chapter, upon identification of a producer that is not registered with the producer responsibility organization with an approved plan, CalRecycle shall issue a notice of noncompliance to the producer.

(d) If CalRecycle determines a producer is not in compliance with this chapter, CalRecycle shall remove the producer, and its brands of covered products, from the compliance list on its internet website.

(e) CalRecycle shall provide a certification letter to a producer that is not listed on CalRecycle's internet website as a compliant producer, but that has demonstrated compliance with this chapter to CalRecycle. The certification letter shall state that the producer is in compliance with this chapter. CalRecycle may update the compliance list on its website.

**48695.64.** (a) CalRecycle may administratively impose on any person who is in violation of this chapter a civil penalty of up to the following amounts:

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

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

(b) In assessing or reviewing the amount of a civil penalty imposed pursuant to subdivision (a) for a violation of this chapter, CalRecycle or the court shall consider all of the following:

(1) The nature and extent of the violation.

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

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

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

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

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

(7) Any other factor that justice may require.

(c) Upon a written finding that a producer responsibility organization, producer, importer, or any other party regulated pursuant to this chapter has not met a material requirement of this chapter, in addition to any other penalties authorized pursuant to this chapter, CalRecycle may take one or both of the following actions to ensure compliance with the requirements of this chapter, after affording the producer responsibility organization, producer, importer, or any other party regulated pursuant to this chapter, an opportunity to respond to or rebut the finding:

(1) Revoke the producer responsibility organization's approved plan or require the producer responsibility organization to resubmit the producer responsibility plan or producer responsibility plan section.

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

(d) CalRecycle shall deposit all penalties collected pursuant to this section into the Lubricant and Waste Oil Penalty Account, which is hereby created in the Lubricant and Waste Oil Producer Responsibility Fund. Upon appropriation by the Legislature, moneys in the Lubricant and Waste Oil Penalty Account shall be available for expenditure by CalRecycle for activities related to the collection, reuse, and recycling of covered products, grants for related purposes, and the administration and enforcement of this chapter.

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

**48695.66.** (a) After the time for judicial review under Section 11523 of the Government Code has expired, CalRecycle may apply to the small claims court or superior court, depending on the jurisdictional amount and any other remedy sought, in the county where the penalties, restitution, or other remedy was imposed by CalRecycle, for a judgment to collect any unpaid civil penalties or restitution or to enforce any other remedy provided by this chapter. The application, which shall include a certified copy of the final agency order or decision, shall constitute a sufficient showing to warrant the issuance of the judgment. The court clerk shall enter the judgment immediately in conformity with the application. The judgment so entered shall have the same force and effect as, and shall be subject to all laws relating to, a judgment in a civil action and may be enforced in the same manner as any other judgment of the court. The court shall make enforcement of the judgment a priority.

(b) If a person has engaged in or is about to engage in an act, practice, or omission that constitutes, or will constitute, a violation of this chapter, the Attorney General may, at the request of the Director of Resources Recycling and Recovery or upon the Attorney General's own determination, bring an action in superior court for an order enjoining the act, practice, or omission. The order may require remedial measures and direct compliance with this chapter. Upon a showing that the person has engaged in or is about to engage in that act, practice, or omission, the superior court may issue a permanent or temporary injunction, restraining order, or other order, as appropriate.

**48695.68.** A producer shall not be subject to penalties pursuant to this article for noncompliance with subdivision (d) of Section 48695.10 until two years after the effective date of the regulations described in Section 48695.02.

#### **Article 8. Antitrust Immunity**

**48695.70.** (a) Except as provided in subdivision (b), an action that is taken by a producer or producer responsibility organization is not a violation of the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), the Unfair Practices Act (Chapter 4 (commencing with Section 17000) of Part 2 of Division 7 of the Business and Professions Code), or the Unfair Competition Law (Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code) to the extent the producer or producer responsibility organization is exercising authority pursuant to this chapter.

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

(1) The creation, implementation, or management of a producer responsibility plan approved or conditionally approved by CalRecycle pursuant to Article 4 (commencing with Section 48695.30) and the determination of the types or quantities of covered products recycled or otherwise managed pursuant to the producer responsibility plan.

(2) The determination of the cost and structure of an approved plan.

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

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

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

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

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

**SEC. 4.** The Legislature finds and declares that Section 3 of this act, which adds Sections 48695.30 and 48695.54 to the Public Resources Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

*In order to ensure the effective management of lubricants and waste oil, it is necessary to protect the proprietary information of producers, retailers, wholesalers, and solid waste enterprises by keeping confidential the financial, production, and sales data reported by those entities under Section 3 of this act.*

**SEC. 5.** *No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.*

**SECTION 1.** ~~Section 30234 of the Public Resources Code is amended to read:~~

~~30234. Facilities serving the commercial fishing and recreational boating industries shall be protected and, where feasible, upgraded. Existing commercial fishing and recreational boating harbor space shall not be reduced unless the demand for those facilities no longer exists or unless adequate substitute space has been provided. Proposed recreational boating facilities shall, where feasible, be designed and located in such a fashion so as not to interfere with the needs of the commercial fishing industry.~~