

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 26-1024.01 Jennifer Berman x3286

SENATE BILL 26-192

SENATE SPONSORSHIP

Cutter,

HOUSE SPONSORSHIP

Soper and Joseph,

Senate Committees
Transportation & Energy

House Committees

A BILL FOR AN ACT

101 CONCERNING AN APPEALS PROCESS FOR PRODUCERS TO CONTEST THE
102 ECO-MODULATED DUES ASSESSED AGAINST PRODUCERS TO
103 FINANCE THE PRODUCER RESPONSIBILITY PROGRAM FOR
104 STATEWIDE RECYCLING.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The producer responsibility program for statewide recycling (program) provides recycling services to covered entities in the state and is financed through annual dues assessed against producers of products

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

that use packaging materials and paper products (producers).

The bill reaffirms the authority of the solid and hazardous waste commission in the department of public health and environment (department) to direct an appeals process whereby producers may contest the program dues assessed against them by requesting a hearing before the producer responsibility program for statewide recycling advisory board (advisory board). If a producer requests a hearing before the advisory board, the advisory board is required to hold the hearing and issue written recommendations to the department as to whether the dues assessed against the producer should be adjusted. The department is required to make a determination whether to approve or reject the advisory board's recommendations regarding the assessed dues within 45 days after receiving the advisory board's recommendations on the matter. The department's determination is a final agency action subject to judicial review.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) Producers that finance the producer responsibility program for
5 statewide recycling by paying dues into the program have the opportunity
6 to be heard through an administrative appeals process regarding the
7 eco-modulation factors and benchmarks applied to producer responsibility
8 dues;

9 (b) The legislative committee on legal services considered
10 ambiguity surrounding the scope of authority of the solid and hazardous
11 waste commission and the producer responsibility program for statewide
12 recycling advisory board related to appeals of the eco-modulation factors
13 and benchmarks applied to producer responsibility dues and affirmed the
14 commission's authority to direct the appeals process; and

15 (c) The act clarifies existing law, and, therefore, reaffirms the
16 actions of the solid and hazardous waste commission and the producer
17 responsibility program for statewide recycling advisory board related to

1 appeals of the assessed producer responsibility dues based on the
2 eco-modulation factors and benchmarks.

3 **SECTION 2.** In Colorado Revised Statutes, 25-17-704, **amend**
4 (7)(f) and (7)(g); and **add** (7)(h) as follows:

5 **25-17-704. Producer responsibility program for statewide**
6 **recycling advisory board - creation - membership.**

7 (7) The advisory board shall:

8 (f) Review the annual report submitted by the organization under
9 section 25-17-709 (2)(a); ~~and~~

10 (g) Consult with the organization on the development and
11 updating of the minimum recyclable list; AND

12 (h) IF REQUESTED BY A PRODUCER PURSUANT TO SECTION
13 25-17-709 (1)(a)(II), HOLD AN ADMINISTRATIVE HEARING IN ACCORDANCE
14 WITH SECTION 24-4-105 ON THE DUES BASED ON THE ECO-MODULATION
15 FACTORS AND BENCHMARKS ASSESSED BY THE PRODUCER RESPONSIBILITY
16 ORGANIZATION, ANY ADDITIONAL PRODUCER RESPONSIBILITY
17 ORGANIZATION, OR AN INDIVIDUAL PRODUCER OF AN ALTERNATIVE
18 COLLECTION PROGRAM.

19 **SECTION 3.** In Colorado Revised Statutes, 25-17-709, **amend**
20 (1)(a) as follows:

21 **25-17-709. Producer responsibility dues - inspection of records**
22 **- annual reporting.**

23 (1) (a) (I) Except as set forth in a plan approved by the executive
24 director pursuant to this part 7 on or after January 1, 2029, by a date
25 determined by the organization that is no later than January 1, 2026, and
26 annually thereafter by a date determined by the organization, a producer
27 shall pay producer responsibility dues to the organization based on the

1 funding mechanism described in the plan proposal pursuant to section
2 25-17-705 (4)(i).

3 (II) A PRODUCER THAT RECEIVES A FINAL INVOICE FROM, AND HAS
4 PROCEEDED THROUGH ANY REQUIRED MEDIATION WITH, THE PRODUCER
5 RESPONSIBILITY ORGANIZATION, ANY ADDITIONAL PRODUCER
6 RESPONSIBILITY ORGANIZATION, OR AN INDIVIDUAL PRODUCER OF AN
7 ALTERNATIVE COLLECTION PROGRAM ASSESSING DUES FOR THE PROGRAM
8 MAY SUBMIT A WRITTEN REQUEST TO THE ADVISORY BOARD FOR A
9 HEARING TO CONTEST WHETHER THE ASSESSED DUES BASED ON THE
10 ECO-MODULATION FACTORS AND BENCHMARKS COMPLY WITH THE FINAL
11 PLAN, APPLICABLE COMMISSION RULES, AND THIS PART 7. AFTER HOLDING
12 THE REQUESTED HEARING, THE ADVISORY BOARD SHALL ISSUE WRITTEN
13 RECOMMENDATIONS TO THE DEPARTMENT CONCERNING WHETHER THE
14 ASSESSED DUES BASED ON THE ECO-MODULATION FACTORS AND
15 BENCHMARKS COMPLY WITH THE FINAL PLAN, APPLICABLE COMMISSION
16 RULES, AND THIS PART 7.

17 (III) WITHIN FORTY-FIVE DAYS AFTER RECEIVING
18 RECOMMENDATIONS THAT THE ADVISORY BOARD ISSUES PURSUANT TO
19 SUBSECTION (1)(a)(II) OF THIS SECTION, THE DEPARTMENT SHALL REVIEW
20 THE RECOMMENDATIONS AND DETERMINE WHETHER TO APPROVE OR
21 REJECT THE RECOMMENDATIONS. THE DEPARTMENT'S DETERMINATION ON
22 THE MATTER IS A FINAL AGENCY ACTION SUBJECT TO JUDICIAL REVIEW
23 PURSUANT TO SECTION 24-4-106.

24 **SECTION 4. Act subject to petition - effective date.** This act
25 takes effect at 12:01 a.m. on the day following the expiration of the
26 ninety-day period after final adjournment of the general assembly (August
27 12, 2026, if adjournment sine die is on May 13, 2026); except that, if a

1 referendum petition is filed pursuant to section 1 (3) of article V of the
2 state constitution against this act or an item, section, or part of this act
3 within such period, then the act, item, section, or part will not take effect
4 unless approved by the people at the general election to be held in
5 November 2026 and, in such case, will take effect on the date of the
6 official declaration of the vote thereon by the governor.