

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 23-0914.01 Sarah Lozano x3858

SENATE BILL 23-253

SENATE SPONSORSHIP

Cutter,

HOUSE SPONSORSHIP

Froelich,

Senate Committees

Business, Labor, & Technology
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING STANDARDS FOR PRODUCTS REPRESENTED AS**
102 **COMPOSTABLE IN THE STATE.**

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 bill creates standards (standards) for products that are represented, marketed, or advertised in the state as being capable of undergoing decomposition in a controlled composting system as demonstrated in accordance with applicable international standards for compostable products set by ASTM International (compostable).

A producer is prohibited from representing a product as

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.

1 (a) COMPOSTING AND RECYCLING ARE TWO OF THE MOST
2 COST-EFFECTIVE CLIMATE CHANGE SOLUTIONS THAT CAN BE
3 IMPLEMENTED;

4 (b) LANDFILLING FOOD SCRAPS AND YARD TRIMMINGS CAUSES
5 THESE ORGANIC MATERIALS TO DECOMPOSE WITHOUT OXYGEN CREATING
6 VAST AMOUNTS OF METHANE, A GREENHOUSE GAS THAT IS EIGHTY-FOUR
7 TIMES MORE POTENT THAN CARBON DIOXIDE IN THE SHORT TERM;

8 (c) DIVERTING THESE ORGANIC MATERIALS INTO LOCAL CIRCULAR
9 SYSTEMS CREATES JOBS AND SUPPORTS THE GROWING NUMBER OF
10 COMPOSTING HAULING AND PROCESSING BUSINESSES IN THE STATE;

11 (d) FINISHED COMPOST IS A VALUABLE SOIL AMENDMENT THAT
12 BUILDS HEALTHIER SOILS THAT ARE MORE RESILIENT TO DROUGHT AND
13 FLOODING AND CREATES MORE PRODUCTIVE AGRICULTURAL LANDS;

14 (e) TO LEVERAGE THE POTENTIAL BENEFITS OF CERTIFIED
15 COMPOSTABLE BAGS AND PRODUCTS, IT IS VITAL TO CLEARLY LABEL THESE
16 PRODUCTS IN A WAY THAT MAKES THEM IMMEDIATELY AND EASILY
17 IDENTIFIABLE AS CERTIFIED COMPOSTABLE UPON QUICK INSPECTION AT
18 POINT OF SALE AND POINT OF USE AND IN A PUBLIC SORTING AREA AND
19 PROCESSING FACILITY;

20 (f) SALES OF FALSELY MARKETED OR "GREENWASHED" FOOD
21 SERVICE WARE AND PACKAGING PRODUCTS THAT LOOK LIKE CERTIFIED
22 COMPOSTABLE PRODUCTS YET DO NOT COMPOST ACCORDING TO THE
23 STANDARDS SET BY ASTM INTERNATIONAL ARE HARMFUL TO OUR
24 STATE'S ECONOMY BY:

25 (I) CREATING CONFUSION AND CAUSING UNDUE COST BURDEN TO
26 INDIVIDUAL AND BUSINESS CONSUMERS;

27 (II) INCREASING COST AND OPERATIONAL CHALLENGES FOR

1 COMPOST MANUFACTURERS;

2 (III) CONTAMINATING COMPOSTABLE MATERIAL STREAMS; AND

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4 (IV) REDUCING THE VALUE OF THE FINISHED COMPOST AND
5 SOMETIMES MAKING IT UNMARKETABLE;

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7 (g) ENVIRONMENTAL MARKETING CLAIMS FOR PRODUCTS
8 MARKETED AS COMPOSTABLE, WHETHER IMPLICIT OR IMPLIED, SHOULD
9 ADHERE TO UNIFORM AND RECOGNIZED STANDARDS FOR COMPOSTABILITY;

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11 (h) PRODUCTS MARKETED AS COMPOSTABLE SHOULD BE READILY
12 AND EASILY IDENTIFIABLE AS COMPLYING WITH UNIFORM AND
13 RECOGNIZED STANDARDS; AND

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15 (i) IMPLEMENTING A STANDARDIZED SYSTEM AND VERIFICATION
16 METHODS MAY CREATE THE ABILITY FOR COMPOST FACILITIES TO ACCEPT
17 THESE PRODUCTS IN THE FUTURE.

18 (2) THE GENERAL ASSEMBLY THEREFORE DECLARES THAT IT IS IN
19 THE PUBLIC INTEREST OF THE STATE TO ESTABLISH STANDARDS FOR
20 PRODUCTS REPRESENTED, MARKETED, OR ADVERTISED AS COMPOSTABLE.

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22 **25-17-802. Definitions.** AS USED IN THIS PART 8, UNLESS THE
23 CONTEXT OTHERWISE REQUIRES:

24 (1) "ASTM 5988" MEANS THE ASTM INTERNATIONAL STANDARD
25 5988 ENTITLED "STANDARD TEST METHOD FOR DETERMINING AEROBIC
26 BIODEGRADATION OF PLASTIC MATERIALS IN SOIL", AS THAT STANDARD
27 EXISTED AS OF JANUARY 1, 2019.

1 (2) "ASTM D6400" MEANS THE ASTM INTERNATIONAL
2 STANDARD D6400 ENTITLED "STANDARD SPECIFICATION FOR LABELING
3 OF PLASTICS DESIGNED TO BE AEROBICALLY COMPOSTED IN MUNICIPAL
4 OR INDUSTRIAL FACILITIES", AS THAT STANDARD EXISTED AS OF JANUARY
5 1, 2019.

6 (3) "ASTM D6868" MEANS THE ASTM INTERNATIONAL
7 STANDARD D6868 ENTITLED "STANDARD SPECIFICATION FOR LABELING
8 OF END ITEMS THAT INCORPORATE PLASTICS AND POLYMERS AS
9 COATINGS OR ADDITIVES WITH PAPER AND OTHER SUBSTRATES DESIGNED
10 TO BE AEROBICALLY COMPOSTED IN MUNICIPAL OR INDUSTRIAL
11 FACILITIES", AS THAT STANDARD EXISTED AS OF JANUARY 1, 2019.

12 (4) "ASTM INTERNATIONAL" MEANS ASTM INTERNATIONAL OR
13 ANY SUCCESSOR ENTITY.

14 (5) "BIODEGRADABLE MULCH FILM" MEANS ANY FILM PRODUCT
15 USED AS A TECHNICAL TOOL IN COMMERCIAL FARMING APPLICATIONS
16 THAT:

17 (a) FULFILLS THE PLANT GROWTH AND REGULATED METALS
18 REQUIREMENTS OF ASTM D6400; AND

19 (b) SHOWS AT LEAST A NINETY PERCENT BIODEGRADATION
20 ABSOLUTE OR RELATIVE TO MICROCRYSTALLINE CELLULOSE OVER A
21 PERIOD OF LESS THAN TWO YEARS ACCORDING TO ISO 17556 OR ASTM
22 5988.

23 (6) "CERTIFIED COMPOSTABLE" MEANS THAT A PRODUCT HAS
24 RECEIVED CERTIFICATION BY A RECOGNIZED, INDEPENDENT, THIRD-PARTY
25 VERIFICATION BODY THAT THE PRODUCT IS COMPOSTABLE.

26 (7) "COMMERCIAL COMPOSTING FACILITY" MEANS ANY SOLID
27 WASTE COMPOSTING FACILITY REGULATED BY THE DEPARTMENT THAT:

1 (a) ACCEPTS A FEE FOR SOLID WASTE COMPOSTING; OR

2 (b) COMPOSTS SOLID WASTE TO CREATE A COMPOST OR SOIL
3 AMENDMENT AND DISTRIBUTES THE FINISHED COMPOST OR SOIL
4 AMENDMENT OFFSITE FOR A FEE.

5 (8) "COMPOSTABLE" MEANS THAT A PRODUCT IS CAPABLE OF
6 UNDERGOING AEROBIC BIOLOGICAL DECOMPOSITION IN A CONTROLLED
7 COMPOSTING SYSTEM AS DEMONSTRATED IN ACCORDANCE WITH ASTM
8 D6400 OR ASTM D6868, AS APPLICABLE.

9 (9) "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC HEALTH
10 AND ENVIRONMENT CREATED IN SECTION 24-1-119.

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12 (10) "FEDERAL TRADE COMMISSION GUIDELINES" MEANS THE
13 FEDERAL TRADE COMMISSION GUIDES FOR THE USE OF ENVIRONMENTAL
14 MARKETING CLAIMS, CODIFIED IN 16 CFR 260 ET SEQ., AS AMENDED.

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16 (11) "FILM PRODUCT" MEANS A BAG, SACK, WRAP, OR OTHER
17 SHEET FILM PRODUCT THAT IS A SINGLE-USE PRODUCT MADE
18 PREDOMINANTLY OF PLASTIC DERIVED FROM NATURAL GAS, PETROLEUM,
19 OR A BIOLOGICALLY BASED SOURCE, INCLUDING CORN AND OTHER PLANT
20 SOURCES.

21 (12) (a) "FOOD SERVICE PRODUCT" MEANS A PRODUCT INTENDED
22 FOR ONE-TIME USE AND THAT IS USED FOR FOOD OR DRINK THAT IS
23 OFFERED FOR SALE OR USE.

24 (b) "FOOD SERVICE PRODUCT" INCLUDES CONTAINERS, PLATES,
25 BOWLS, CUPS, LIDS, BEVERAGE CONTAINERS, MEAT TRAYS, DELI ROUNDS,
26 UTENSILS, SACHETS, STRAWS, CONDIMENT PACKAGING, CLAMSHELLS AND
27 OTHER HINGED OR LIDDED CONTAINERS, WRAPS, AND PORTION CUPS.

1 (13) "ISO 17556" MEANS THE INTERNATIONAL ORGANIZATION FOR
2 STANDARDIZATION DOCUMENT ENTITLED "PLASTICS - DETERMINATION OF
3 THE ULTIMATE AEROBIC BIODEGRADABILITY OF PLASTIC MATERIALS IN
4 SOIL BY MEASURING THE OXYGEN DEMAND IN A RESPIROMETER OR THE
5 AMOUNT OF CARBON DIOXIDE EVOLVED", AS THAT DOCUMENT EXISTED AS
6 OF JANUARY 1, 2019.

7 (14) "LOCAL GOVERNMENT" MEANS A HOME RULE OR STATUTORY
8 COUNTY, MUNICIPALITY, OR CITY AND COUNTY.

9 (15) "PACKAGING" MEANS ANY MATERIAL THAT IS INTENDED FOR
10 SINGLE OR SHORT-TERM USE AND IS DESIGNED FOR THE CONTAINMENT,
11 PROTECTION, HANDLING, OR DELIVERY OF A PRODUCT.

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13 (16) (a) "PLASTIC PRODUCT" MEANS A PRODUCT MADE OF PLASTIC,
14 WHETHER ALONE OR IN COMBINATION WITH ANOTHER MATERIAL,
15 INCLUDING PAPERBOARD.

16 (b) "PLASTIC PRODUCT" INCLUDES:

17 (I) A PRODUCT MADE OF PETROCHEMICAL OR PLANT-BASED
18 PLASTICS;

19 (II) A PACKAGE OR PACKAGING COMPONENT;

20 (III) A FILM PRODUCT; AND

21 (IV) A FOOD SERVICE PRODUCT THAT IS A PLASTIC PRODUCT.

22 (17) (a) "PRODUCER" HAS THE MEANING SET FORTH IN SECTION
23 25-17-703 (30).

24 (b) "PRODUCER" DOES NOT INCLUDE ANY PERSON DESCRIBED IN
25 SECTION 25-17-713 (1).

26 (18) (a) "PRODUCT ACCESSORY" MEANS ANY STANDARD OR
27 COMMON COMPONENTS, APPURTENANCES, OR ACCESSORIES THAT ARE

1 SOLD, OFFERED FOR SALE, OR DISTRIBUTED WITH A PARTICULAR PRODUCT.

2 (b) "PRODUCT ACCESSORY" INCLUDES LIDS, STRAWS, AND LABELS.

3 (19) "PROPRIETARY INFORMATION" HAS THE MEANING SET FORTH
4 IN SECTION 25-17-703 (34).

5 (20) (a) "SMALL PRODUCT" MEANS A PRODUCT WITH A WIDTH OF
6 ONE-HALF INCH OR LESS OF PRINTABLE SURFACE SPACE.

7 (b) "SMALL PRODUCT" INCLUDES STRAWS AND UTENSILS.

8 (21) "UNTREATED WOOD" MEANS WOOD, INCLUDING RAW OR
9 KILN-DRIED WOOD, THAT IS UNPAINTED AND NOT TREATED WITH ANY
10 CHEMICALS INTENDED TO RESIST DECOMPOSITION.

11 (22) (a) "UTENSIL" MEANS A PRODUCT DESIGNED TO BE USED BY
12 A CONSUMER TO FACILITATE THE CONSUMPTION OF FOOD OR BEVERAGES.

13 (b) "UTENSIL" INCLUDES KNIVES, FORKS, SPOONS, SPORKS,
14 COCKTAIL PICKS, CHOPSTICKS, SPLASH STICKS, AND STIRRERS.

15 (23) "WOOD" MEANS RENEWABLE WOOD OR FIBER-BASED
16 SUBSTRATE.

17 **25-17-803. Requirements for products represented as**
18 **compostable.** (1) A PRODUCER OF A PRODUCT THAT IS SOLD, OFFERED
19 FOR SALE, OR DISTRIBUTED IN THE STATE SHALL NOT REPRESENT THE
20 PRODUCT AS COMPOSTABLE IN THE STATE UNLESS:

21 (a) THE PRODUCT IS CERTIFIED COMPOSTABLE IN ACCORDANCE
22 WITH ASTM D6400 OR ASTM D6868, AS APPLICABLE; AND

23 (b) TO THE EXTENT CONSISTENT WITH FEDERAL TRADE
24 COMMISSION GUIDELINES AND IN A MANNER THAT ENSURES THAT THE
25 PRODUCT IS EASILY AND IMMEDIATELY DISTINGUISHABLE AS CERTIFIED
26 COMPOSTABLE, AS DESCRIBED IN SUBSECTION (1)(a) OF THIS SECTION,
27 UPON QUICK INSPECTION AT POINT OF SALE AND POINT OF USE AND IN A

1 PUBLIC SORTING AREA AND PROCESSING FACILITY, THE PRODUCT AND ITS
2 PACKAGING:

3 (I) DISPLAY A CERTIFICATION LOGO THAT INDICATES THAT THE
4 PRODUCT IS CERTIFIED COMPOSTABLE;

5 (II) DISPLAY THE WORD "COMPOSTABLE" WHERE POSSIBLE; AND

6 (III) USE GREEN-COLORED LABELING OR STRIPING OR OTHER
7 EASILY RECOGNIZABLE GREEN SYMBOLS, COLORS, TINTING, MARKS, OR
8 DESIGN PATTERNS THAT DIFFERENTIATE THE PRODUCT FROM PRODUCTS
9 THAT ARE NOT CERTIFIED COMPOSTABLE.

10 (2) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE
11 CONTRARY, A PRODUCER OF ANY PRODUCT DESCRIBED IN SUBSECTION (1)
12 OF THIS SECTION THAT IS A SMALL PRODUCT IS REQUIRED TO COMPLY ONLY
13 WITH THE REQUIREMENTS OF SUBSECTION (1)(b)(I), (1)(b)(II), OR
14 (1)(b)(III) OF THIS SECTION.

15 (3) (a) ANY PRODUCT ACCESSORY THAT IS NOT A SMALL PRODUCT
16 AND THAT IS SOLD, OFFERED FOR SALE, OR DISTRIBUTED WITH ANY
17 PRODUCT DESCRIBED IN SUBSECTION (1) OF THIS SECTION MUST:

18 (I) COMPLY WITH SUBSECTION (1) OF THIS SECTION IF THE
19 PRODUCT IS CERTIFIED COMPOSTABLE;

20 (II) DISPLAY A LABEL ON THE PRODUCT ACCESSORY AND ITS
21 PACKAGING THAT CLEARLY DESCRIBES THE RECYCLABILITY OF THE
22 PRODUCT ACCESSORY; OR

23 (III) DISPLAY A LABEL ON THE PRODUCT ACCESSORY AND ITS
24 PACKAGING THAT INCLUDES THE PHRASE "LANDFILL ONLY".

25 (b) ANY PRODUCT ACCESSORY THAT IS A SMALL PRODUCT MAY
26 COMPLY WITH THE REQUIREMENTS OF SUBSECTIONS (2) AND (3)(a) OF THIS
27 SECTION, AS APPLICABLE, IN A MANNER THAT IS IN PROPORTION TO THE

1 SIZE OF THE PRODUCT ACCESSORY.

2 (4) NOTWITHSTANDING ANYTHING IN THIS SECTION TO THE
3 CONTRARY, THE REQUIREMENTS OF THIS SECTION DO NOT APPLY TO A
4 PRODUCER OF A PRODUCT THAT IS COMPRISED ENTIRELY OF UNTREATED
5 WOOD.

6 **25-17-804. Marketing and advertising prohibitions for**
7 **products that are not certified compostable - misleading labels,**
8 **images, and words - plastic products.** (1) A PRODUCER OF A PRODUCT
9 THAT IS NOT CERTIFIED COMPOSTABLE SHALL NOT MARKET OR ADVERTISE
10 THE PRODUCT IN THE STATE USING:

11 (a) TINTING, COLOR SCHEMES, LABELING, OR WORDS THAT ARE
12 REQUIRED FOR PRODUCTS REPRESENTED AS COMPOSTABLE PURSUANT TO
13 SECTION 25-17-803; OR

14 (b) LABELING, IMAGES, OR WORDS THAT COULD BE REASONABLY
15 ANTICIPATED TO MISLEAD CONSUMERS INTO BELIEVING THAT THE
16 PRODUCT IS COMPOSTABLE.

17 (2) (a) A PRODUCER OF A PLASTIC PRODUCT SHALL NOT MARKET
18 OR ADVERTISE THE PRODUCT IN THE STATE USING:

19 (I) THE WORDS "NATURAL", "BIODEGRADABLE", "DEGRADABLE",
20 "DECOMPOSABLE", "OXO-DEGRADABLE", "BIOASSIMILABLE",
21 "OMNIDEGRADABLE", OR ANY OTHER SIMILAR FORM OF THESE WORDS; OR

22 (II) ANY LABELING, IMAGES, OR WORDS THAT IMPLY THAT THE
23 PLASTIC PRODUCT WILL EVENTUALLY BREAK DOWN, FRAGMENT,
24 BIODEGRADE, OR DECOMPOSE IN A LANDFILL OR OTHER ENVIRONMENT IN
25 THE SAME MANNER AS A PRODUCT THAT IS CERTIFIED COMPOSTABLE.

26 (b) THE PROHIBITIONS IN SUBSECTION (2)(a) OF THIS SECTION DO
27 NOT APPLY TO BIODEGRADABLE MULCH FILM.

1 (3) A PRODUCER OF A PRODUCT THAT IS COMPOSTABLE SHALL NOT
2 MARKET OR ADVERTISE THE PRODUCT USING A CHASING ARROW RESIN
3 IDENTIFICATION CODE OR RECYCLING SYMBOL OF ANY FORM.

4 (4) EACH PRODUCER THAT SELLS, OFFERS FOR SALE, OR
5 DISTRIBUTES A PRODUCT IN THE STATE IS ENCOURAGED TO USE LABELING,
6 IMAGES, AND WORDS THAT ASSIST CONSUMERS IN IDENTIFYING PRODUCTS
7 THAT ARE SUITABLE FOR RECYCLING OR LANDFILL ONLY, AS APPLICABLE,
8 AND THAT ARE NOT COMPOSTABLE.

9 (5) THE REQUIREMENTS OF THIS SECTION APPLY ONLY TO THE
10 EXTENT CONSISTENT WITH ANY APPLICABLE FEDERAL LAW.

11 **25-17-805. Proof of compliance - information on commercial**
12 **composting environment.** (1) ON AND AFTER JANUARY 1, 2024, AT THE
13 REQUEST OF ANY PERSON, INCLUDING THE ATTORNEY GENERAL, A
14 PRODUCER SHALL PROVIDE INFORMATION AND DOCUMENTATION
15 DEMONSTRATING THE PRODUCER'S COMPLIANCE WITH THIS PART 8 IN A
16 FORMAT THAT IS EASILY UNDERSTANDABLE AND SCIENTIFICALLY
17 ACCURATE, WHICH MAY INCLUDE PROVIDING A CERTIFICATION
18 DEMONSTRATING THAT A PRODUCT IS CERTIFIED COMPOSTABLE.

19 (2) AT THE REQUEST OF A COMMERCIAL COMPOSTING FACILITY, A
20 PRODUCER IS ENCOURAGED TO PROVIDE THE COMMERCIAL COMPOSTING
21 FACILITY INFORMATION REGARDING THE CHARACTERISTICS, SUCH AS HEAT
22 OR MOISTURE LEVELS, OF THE COMMERCIAL COMPOSTING ENVIRONMENT
23 IN WHICH THE PRODUCER'S PRODUCT HAS BEEN TESTED AND FOUND TO BE
24 COMPOSTABLE.

25 (3) NOTWITHSTANDING ANYTHING IN THIS SECTION TO THE
26 CONTRARY, NOTHING IN THIS SECTION REQUIRES A PRODUCER TO DISCLOSE
27 PROPRIETARY INFORMATION TO ANY PERSON.

1 **25-17-806. Education and outreach - complaint forum.**

2 (1) THE DEPARTMENT SHALL, IN COLLABORATION WITH LOCAL
3 GOVERNMENTS, CONDUCT EDUCATION AND OUTREACH ACTIVITIES TO
4 INFORM RETAIL ESTABLISHMENTS, CONSUMERS, PRODUCERS, AND
5 RETAILERS ABOUT THE REQUIREMENTS AND PROHIBITIONS OF THIS PART 8.

6 (2) (a) ON OR BEFORE JANUARY 1, 2024, THE DEPARTMENT SHALL
7 ESTABLISH A FORUM THAT ALLOWS ANY PERSON TO FILE A COMPLAINT
8 AGAINST A PRODUCER FOR A VIOLATION OF THIS PART 8. THE FORUM
9 ESTABLISHED BY THE DEPARTMENT MAY INCLUDE ANY OF THE FOLLOWING
10 MECHANISMS TO RECEIVE COMPLAINTS:

- 11 (I) A COMPLAINT FORM ON THE DEPARTMENT'S WEBSITE;
- 12 (II) A TELEPHONE HOTLINE; OR
- 13 (III) A PUBLIC OUTREACH STRATEGY BASED ON SOCIAL MEDIA.

14 (b) THE DEPARTMENT SHALL PROVIDE ANY NONFRIVOLOUS AND
15 NONTRIVIAL COMPLAINTS RECEIVED THROUGH THE FORUM TO THE
16 ATTORNEY GENERAL'S OFFICE.

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18 **SECTION 2. Act subject to petition - effective date.** This act
19 takes effect at 12:01 a.m. on the day following the expiration of the
20 ninety-day period after final adjournment of the general assembly; except
21 that, if a referendum petition is filed pursuant to section 1 (3) of article V
22 of the state constitution against this act or an item, section, or part of this
23 act within such period, then the act, item, section, or part will not take
24 effect unless approved by the people at the general election to be held in
25 November 2024 and, in such case, will take effect on the date of the
26 official declaration of the vote thereon by the governor.