

# ASSEMBLY, No. 4676

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED SEPTEMBER 17, 2020

**Sponsored by:**  
**Assemblywoman ANNETTE QUIJANO**  
**District 20 (Union)**

### **SYNOPSIS**

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

### **CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning the sale of certain containers and packaging  
2 products in the State and supplementing Title 13 of the Revised  
3 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 sections 1 through 14 of this act:

9 “Beverage” means milk, alcoholic beverages, including beer or  
10 other malt beverages, liquor, wine, vermouth and sparkling wine,  
11 and nonalcoholic beverages, including fruit juice, mineral water and  
12 soda water and similar nonalcoholic carbonated and noncarbonated  
13 drinks intended for human consumption.

14 “Department” means the Department of Environmental  
15 Protection.

16 “Food” means articles used for food or drink for humans and  
17 articles used for components of any such article.

18 “Manufacturer” means a person that: (1) produces or generates a  
19 rigid plastic container, plastic beverage container, glass container,  
20 paper carryout bag, reusable carryout bag made of plastic film, or  
21 plastic trash bag that is sold or offered for sale in the State; or (2)  
22 produces or generates a product that is sold or offered for sale in the  
23 State and packaged in a rigid plastic container, plastic beverage  
24 container, or glass container.

25 “Package” means a container used to protect, store, contain,  
26 transport, display, or sell a product.

27 “Paper carryout bag” means a bag made of paper that is sold or  
28 provided by a store or other retail establishment to a customer for  
29 the purpose of wrapping, containing, or carrying out food,  
30 beverages, or other retail goods.

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

33 “Plastic” means a synthetic material made from linking  
34 monomers through a chemical reaction to create an organic polymer  
35 chain that can be molded or extruded at high heat into various solid  
36 forms, which retain their defined shapes during their life cycle and  
37 after disposal.

38 “Plastic beverage container” means an individual bottle or can  
39 composed primarily of plastic that is hermetically sealed or made  
40 airtight with a metal or plastic cap, and that contains a beverage.

41 “Plastic film” means any thin, nonwoven, flexible plastic.

42 “Plastic trash bag” means a bag that is made of plastic, is at least  
43 0.70 mils thick, and is designed and manufactured for use as a  
44 container to hold, store, or transport materials to be discarded,  
45 composted, or recycled, and includes, but is not limited to, a  
46 garbage bag, composting bag, lawn or leaf bag, can-liner bag,  
47 kitchen bag, compactor bag, or recycling bag.

1       “Recycled content” means the portion of a package’s total  
2 weight that is composed of recycled material, as determined by a  
3 material balance approach that calculates total recycled material in  
4 the package as a percentage of the total weight of the package.

5       “Recycled material” means a material or product that has  
6 completed its intended end use and product life cycle, and which  
7 has been separated from the solid waste stream for the purposes of  
8 collection and recycling; except that “recycled material” shall not  
9 include secondary waste material or materials and by-products  
10 generated from, and commonly used within, an original  
11 manufacturing and fabrication process.

12       “Reusable carryout bag” means a bag that is sold or provided by  
13 a store to a customer for the purpose of transporting groceries,  
14 prepared foods, or retail goods, and that is designed and  
15 manufactured for multiple reuse.

16       “Rigid plastic container” means a package composed primarily  
17 of plastic that has a relatively inflexible finite shape or form, has a  
18 capacity of between eight ounces and five gallons, and is capable of  
19 maintaining its shape while empty or while holding other products.

20

21       2. a. Except as provided in subsection c. of this section,  
22 beginning January 1, 2022, each rigid plastic container sold, offered  
23 for sale, or used in association with the sale or offer for sale of a  
24 product in the State by a manufacturer shall:

25       (1) contain at least 35 percent recycled content; or

26       (2) be made of a plastic that is being recycled in the State at a  
27 rate of 35 percent.

28       b. A rigid plastic container shall be deemed to meet the  
29 requirements of paragraph (2) of subsection a. of this section if:

30       (1) rigid plastic containers, in the aggregate, are being recycled  
31 in the State at a rate of 35 percent;

32       (2) the rigid plastic container is a specific resin type of rigid  
33 plastic container and that resin type of rigid plastic container is  
34 being recycled in the State at a rate of 35 percent; or

35       (3) the rigid plastic container is a particular product-associated  
36 package and that type of product-associated package is being  
37 recycled in the State at a rate of 35 percent.

38       c. A rigid plastic container shall be exempt from the  
39 requirements of subsection a. of this section if it:

40       (1) is a plastic beverage container, to which the requirements of  
41 section 3 of this act apply;

42       (2) contains drugs, medical devices, medical food, or infant  
43 formula as defined in the Federal Food, Drug, and Cosmetic Act, 21  
44 U.S.C. s.301 et seq.;

45       (3) contains toxic or hazardous products regulated by the  
46 “Federal Insecticide, Fungicide, and Rodenticide Act,” 7 U.S.C.  
47 s.136 et seq.;

1 (4) is associated with a product produced in or brought into the  
2 State that is destined for shipment to other destinations outside the  
3 State and that remains with the product upon shipment;

4 (5) is necessary to provide tamper-resistant seals for public  
5 health purposes;

6 (6) is a source reduced package. A rigid plastic container shall  
7 qualify as a source reduced package if the percentage of package  
8 weight per unit of product has been reduced by at least 10 percent  
9 when compared with the packaging used for the same product by  
10 the same manufacturer five years earlier. In no case may packaging  
11 reduction be achieved, for purposes of this paragraph, by  
12 substituting a different material category for a material that  
13 constituted a substantial part of the packaging in question, or by  
14 packaging changes that adversely impact either the potential for the  
15 package to be recycled or contain recycled material. Exemptions  
16 under this paragraph shall be limited to five years, shall not be  
17 renewable, and shall not be applicable to packages for which the  
18 percentage of package weight per unit of product increased after  
19 January 1, 2021; or

20 (7) is a refillable container or a reusable container. A rigid  
21 plastic container shall qualify as a refillable container if the  
22 container is routinely returned to and refilled by the manufacturer at  
23 least five times with the same product packaged by the container. A  
24 rigid plastic container shall qualify as a reusable container if the  
25 container is routinely reused by consumers at least five times to  
26 store the same product packaged by the container.

27 d. Each year, the department shall determine the recycling rate  
28 for rigid plastic containers in the aggregate. If, for any year, the  
29 department determines that the recycling rate for rigid plastic  
30 containers in the aggregate is less than 35 percent, the department  
31 shall also determine whether the recycling rate for rigid plastic  
32 containers made from each of the major resin types is 35 percent or  
33 more. The department shall determine the recycling rate for rigid  
34 plastic containers in the aggregate, specific resin types of rigid  
35 plastic containers, and product associated packages based on the  
36 percentage, as measured by weight, of such packages sold or  
37 offered for sale in the State that are recycled the preceding calendar  
38 year. The department shall publish the determinations made  
39 pursuant to this subsection on its Internet website.

40 e. If, in any year, the department determines that the recycling  
41 rate for rigid plastic containers is less than 35 percent, the  
42 department shall prepare and submit a report to the Legislature  
43 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), and to the  
44 members of the Senate Environment and Energy Committee and the  
45 Assembly Environment and Solid Waste Committee, or their  
46 successors, which assesses the reasons why the recycling rate is  
47 below 35 percent, and includes a review of the status of collection  
48 programs in the State and the capacity available in the State to

1 process rigid plastic containers collected and reclaim the resin from  
2 the collected rigid plastic containers. The department may include  
3 in its report any recommendations for legislative or regulatory  
4 action necessary to improve the recycling rate for rigid plastic  
5 containers.

6 f. The department shall not enforce the provisions of this  
7 section during the first full calendar year after the department  
8 determines, for the first time, that the recycling rate for rigid plastic  
9 containers is less than 35 percent. For any period for which the  
10 department determines that the recycling rate for rigid plastic  
11 containers equals or exceeds 35 percent, a manufacturer shall not be  
12 required to keep records that demonstrate compliance as provided  
13 pursuant to subsection b. of section 10 of this act.

14 g. For the purposes of this section, “product-associated  
15 package” means a brand-specific rigid plastic container line, which  
16 may have one or more sizes, shapes, or designs and which is used in  
17 conjunction with a particular, generic product line.

18

19 3. a. Beginning January 1, 2022, through December 31, 2025,  
20 each plastic beverage container sold, offered for sale, or filled with  
21 a beverage sold or offered for sale in the State by a manufacturer  
22 shall contain at least 10 percent recycled content.

23 b. Beginning January 1, 2026, through December 31, 2030,  
24 each plastic beverage container sold, offered for sale, or filled with  
25 a beverage sold or offered for sale in the State by a manufacturer  
26 shall contain at least 25 percent recycled content.

27 c. On and after January 1, 2031, each plastic beverage  
28 container sold, offered for sale, or filled with a beverage sold or  
29 offered for sale in the State by a manufacturer shall contain at least  
30 50 percent recycled content.

31 d. The provisions of this section shall not apply to a refillable  
32 plastic beverage container. For the purposes of this subsection, a  
33 “refillable plastic beverage container” means a plastic beverage  
34 container that has a capacity of 150 fluid ounces or less, holds 150  
35 fluid ounces or less of beverage, and which ordinarily would be  
36 returned to the manufacturer to be refilled and resold.

37

38 4. a. Beginning January 1, 2022, each glass container sold,  
39 offered for sale, or filled with a food or beverage sold or offered for  
40 sale in the State by a manufacturer shall contain at least 35 percent  
41 recycled content; except that, if a manufacturer demonstrates to the  
42 satisfaction of the department that its use of recycled content is  
43 made up of at least 50 percent mixed-color cullet, then the  
44 manufacturer shall use at least 25 percent recycled content in the  
45 manufacturing of its glass containers.

46 b. As used in this section, “mixed-color cullet” means cullet  
47 that does not meet the American Society for Testing and Materials

1 (ASTM) standard specifications for color mix of color sorted post-  
2 filled glass as raw material for the manufacture of glass containers.

3

4 5. Beginning January 1, 2022, each paper carryout bag sold or  
5 offered for sale in the State by a manufacturer shall:

6 a. contain at least 40 percent recycled content; except that a  
7 paper carryout bag that holds eight pounds or less shall contain at  
8 least 20 percent recycled content; and

9 b. have printed on the bag the name of the manufacturer, the  
10 country where the bag was manufactured, and the percentage of  
11 recycled content in the bag.

12

13 6. Each reusable carryout bag made of plastic film that is sold  
14 or offered for sale in the State shall meet the following  
15 requirements:

16 a. Beginning January 1, 2022, the reusable carryout bag shall  
17 contain at least 20 percent recycled content; and

18 b. Beginning January 1, 2025, the reusable carryout bag shall  
19 contain at least 40 percent recycled content.

20

21 7. a. Except as provided in subsection b. of this section,  
22 beginning January 1, 2022, each plastic trash bag sold or offered for  
23 sale in the State shall contain at least 10 percent recycled content.

24 b. The provisions of subsection a. of this section shall not  
25 apply to a bag that is designed and manufactured to hold, store, or  
26 transport hazardous waste or medical waste.

27

28 8. A manufacturer may apply to the department for a waiver  
29 from, or reduction in, the recycled content requirements of sections  
30 2 through 7 of this act. The department may approve, in writing, a  
31 waiver or other relief pursuant to this section if the manufacturer  
32 demonstrates, and the department finds, that it is not  
33 technologically feasible for the manufacturer to achieve the  
34 recycled content requirements, or the manufacturer cannot achieve  
35 the recycled content requirements due to a lack of available  
36 recycled material or other market conditions. The department shall  
37 develop a standardized form for manufacturers to apply for a waiver  
38 pursuant to this section.

39

40 9. a. Beginning January 1, 2022, no person shall sell or offer  
41 for sale in the State polystyrene loose fill packaging.

42 b. Nothing in subsection a. of this section shall be construed to  
43 prohibit a person from using polystyrene loose fill packaging to  
44 package a product sold or offered for sale by the person after  
45 January 1, 2022, if the person purchased the polystyrene loose fill  
46 packaging prior to January 1, 2022 and the person does not resell  
47 the polystyrene loose fill packaging.

48 c. As used in this section:

1       “Expanded polystyrene” means blown polystyrene and expanded  
2 and extruded foams that are thermoplastic petrochemical materials  
3 utilizing a styrene monomer and processed by any number of  
4 techniques including, but not limited to, fusion of polymer spheres  
5 (expandable bead foam), injection molding, foam molding, and  
6 extrusion-blown molding (extruded foam polystyrene). “Expanded  
7 polystyrene” shall not include rigid polystyrene.

8       “Polystyrene loose fill packaging,” commonly known as packing  
9 peanuts, means a void-filling packaging product made of expanded  
10 polystyrene that is used as a packaging fill.

11

12       10. a. On or before January 1 of each year, each manufacturer  
13 shall certify, in writing, to the department that the rigid plastic  
14 containers, plastic beverage containers, glass containers, paper  
15 carryout bags, reusable carryout bags made of plastic film, or  
16 plastic trash bags, as applicable, sold, offered for sale, or used in  
17 association with the sale or offer for sale of a product in the State,  
18 are in compliance with the requirements of this act, or are otherwise  
19 exempt or have been approved for a waiver or other relief under the  
20 provisions of this act. A manufacturer shall submit the certification  
21 in the form and manner determined by the department under penalty  
22 of perjury. The certification shall include the amount in pounds of  
23 virgin plastic, glass, or paper products and recycled content used by  
24 the manufacturer for its rigid plastic containers, plastic beverage  
25 containers, glass containers, paper carryout bags, reusable carryout  
26 bags made of plastic film, or plastic trash bags, as applicable, and  
27 any other information the department determines necessary in order  
28 to determine compliance with this act.

29       b. Each manufacturer shall maintain records that demonstrate,  
30 for all rigid plastic containers, plastic beverage containers, glass  
31 containers, paper carryout bags, reusable carryout bags made of  
32 plastic film, or plastic trash bags generated or produced by the  
33 manufacturer, whether and how the manufacturer has complied with  
34 the requirements of this act, or for what reason, if any, the  
35 manufacturer is exempt or has been approved for a waiver or other  
36 relief from the requirements of this act. The department may adopt  
37 specific requirements for the records required to be maintained  
38 pursuant to this subsection. A manufacturer shall submit its records  
39 to the department upon request. Any proprietary information or  
40 trade secrets included in the records submitted to the department  
41 shall not be made available to the general public. The department  
42 may audit or investigate any manufacturer to assess the  
43 manufacturer’s compliance with the requirements of this act.

44

45       11. a. Any person who violates the provisions of this act, or any  
46 rule or regulation adopted pursuant thereto, shall be subject to a  
47 civil administrative penalty of not more than \$10,000. If the  
48 violation is of a continuing nature, each day during which the

1 violation continues shall constitute an additional, separate, and  
2 distinct offense. The department may adopt a schedule of penalties  
3 to be applied pursuant to this section. In determining the amount  
4 of any penalty to be imposed, the commissioner shall consider the  
5 nature, circumstances, extent, and severity of the violation. No  
6 civil administrative penalty shall be imposed until after the person  
7 has been notified by certified mail or personal service. The notice  
8 shall include: a reference to the provision of this section, or any rule  
9 or regulation adopted pursuant thereto, violated; a concise statement  
10 of the facts alleged to constitute a violation; a statement of the  
11 amount of the civil administrative penalties to be imposed; and a  
12 statement of the person's right to a hearing. The person shall have  
13 20 days from receipt of the notice within which to deliver to the  
14 commissioner a written request for a hearing. Subsequent to the  
15 hearing and upon finding that a violation has occurred, the  
16 commissioner may issue a final order or civil administrative penalty  
17 after imposing the amount of the fine specified in the notice. If no  
18 hearing is requested, the notice shall become a final order or a final  
19 civil administrative penalty upon the expiration of the 20-day  
20 period. Payment of the penalty is due when a final order is issued  
21 or when the notice becomes a final order or a final civil  
22 administrative penalty. The authority to levy a civil administrative  
23 penalty shall be in addition to all other enforcement provisions in  
24 this act, and the payment of a civil administrative penalty shall not  
25 be deemed to affect the availability of any other enforcement  
26 provision in connection with the violation for which the penalty is  
27 levied. A civil administrative penalty imposed under this  
28 subsection may be compromised by the department upon the  
29 posting of a performance bond by the violator, or upon terms and  
30 conditions the department may establish by rule or regulation.

31 b. In addition to the assessment of a civil administrative  
32 penalty pursuant to subsection a. of this section, the department  
33 may, by administrative order, and upon an appropriate finding,  
34 assess a violator for the reasonable costs of any audit, investigation,  
35 or inspection which led to the establishment of the violation. The  
36 department may retain any amount it collects pursuant to this  
37 subsection.

38 c. In addition to, or in lieu of, assessing a civil administrative  
39 penalty pursuant to subsection a. of this section, the department  
40 may require a manufacturer to submit a corrective action plan to the  
41 department detailing how the manufacturer will come into  
42 compliance with the provisions of this act.

43  
44 12. There is established in the Department of the Treasury a  
45 special, nonlapsing account to be known as the "Recycling  
46 Enhancement Penalty Account." The account shall be credited with  
47 all penalties collected pursuant to subsection a. of section 11 of this  
48 act, and any interest or investment income earned on monies in the



1 account. Moneys in the account shall be expended, upon  
2 appropriation by the Legislature, for the sole purpose of supporting  
3 recycling in the State. The department may offer recommendations  
4 each year to the Legislature on appropriate uses of the moneys in  
5 the account, and shall transmit such recommendations to the  
6 chairpersons of the Senate Environment and Energy Committee and  
7 the Assembly Environment and Solid Waste Committee, or their  
8 successors, for their respective consideration.

9  
10 13. A municipality or county shall not adopt any rule,  
11 regulation, code, or ordinance regulating the recycled content of  
12 rigid plastic containers, plastic beverage containers, glass  
13 containers, paper carryout bags, reusable carryout bags made of  
14 plastic film, or plastic trash bags after the effective date of this act.  
15 The provisions of this act shall supersede and preempt any  
16 municipal or county rule, regulation, code, or ordinance regulating  
17 the recycled plastic content requirement for plastic beverage  
18 containers that was enacted prior to the effective date of this act.

19  
20 14. No later than 18 months after the effective date of this act,  
21 the department shall adopt, pursuant to the "Administrative  
22 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and  
23 regulations necessary for the implementation of this act.

24  
25 15. This act shall take effect immediately.

26  
27  
28 STATEMENT

29  
30 This bill would establish recycled content requirements for  
31 plastic containers, glass containers, paper carryout bags, reusable  
32 carryout bags made of plastic film, and plastic trash bags sold or  
33 offered for sale in the State, and prohibit the sale of polystyrene  
34 loose fill packaging.

35 Specifically, under the bill, beginning January 1, 2022, each  
36 rigid plastic container sold, offered for sale, or used in association  
37 with the sale or offer for sale of a product in the State would be  
38 required to: (1) contain at least 35 percent recycled content; or (2)  
39 be made of a plastic that is being recycled in the State at a rate of 35  
40 percent. A rigid plastic container would be deemed to be made of a  
41 plastic that is being recycled in the State at a rate of 35 percent if:  
42 (1) rigid plastic containers, in the aggregate, are being recycled in  
43 the State at a rate of 35 percent; (2) the rigid plastic container is a  
44 specific resin type of rigid plastic container and that type of  
45 container is being recycled in the State at a rate of 35 percent; or (3)  
46 the container is a particular product-associated package and that  
47 type of product-associated package is being recycled in the State at

1 a rate of 35 percent. The bill exempts several types of rigid plastic  
2 containers from the recycled content requirements.

3 Each year, the Department of Environmental Protection (DEP)  
4 would determine the recycling rate for rigid plastic containers. If,  
5 for any year, the DEP determines that the recycling rate for rigid  
6 plastic containers is less than 35 percent, the DEP would also be  
7 required to: (1) determine and publish on its Internet website  
8 whether the recycling rate for rigid plastic containers made from  
9 each of the seven major resin types is 35 percent or more; and (2)  
10 prepare and submit a report to the Legislature assessing the reasons  
11 why the recycling rate is below 35 percent, including a review of  
12 the status of collection programs in the State and the State's  
13 recycling capacity for rigid plastic containers. The DEP would not  
14 enforce the recycled content requirements for rigid plastic  
15 containers in the first full calendar year after it determines, for the  
16 first time, that the recycling rate for rigid plastic containers is less  
17 than 35 percent.

18 Under the bill, different recycled content requirements would  
19 apply to plastic beverage containers. Specifically, beginning  
20 January 1, 2022 through December 31, 2025, each plastic beverage  
21 container sold, offered for sale, or filled with a beverage sold or  
22 offered for sale in the State would be required to contain at least 10  
23 percent recycled content. Beginning January 1, 2026 through  
24 December 31, 2030, each plastic beverage container would be  
25 required to contain at least 25 percent recycled content. On and  
26 after January 1, 2031, each plastic beverage container would be  
27 required to contain at least 50 percent recycled content. However,  
28 the recycled content requirements would not apply to refillable  
29 plastic beverage containers.

30 Additionally, beginning January 1, 2022, each glass container  
31 sold, offered for sale, or filled with a food or beverage sold or  
32 offered for sale in the State would be required to contain at least 35  
33 percent recycled content. However, if a manufacturer demonstrates  
34 to the satisfaction of the DEP that its use of recycled content is  
35 made up of at least 50 percent mixed-color cullet, then the  
36 manufacturer would only be required to use at least 25 percent  
37 recycled content in the manufacturing of its glass containers.

38 Beginning January 1, 2022, each paper carryout bag sold or  
39 offered for sale in the State would be required to contain at least 40  
40 percent recycled content. However, a paper carryout bag that holds  
41 eight pounds or less would only be required to contain at least 20  
42 percent recycled content. Under the bill, a paper carryout bag  
43 would also be required to have printed on the bag the name of the  
44 manufacturer, the country where the bag was manufactured, and the  
45 percentage of recycled content in the bag.

46 Under the bill, each reusable carryout bag made of plastic film  
47 that is sold or offered for sale in the State would be required to  
48 contain at least 20 percent recycled content beginning January 1,

1 2022, and 40 percent recycled content beginning January 1, 2025.  
2 Beginning January 1, 2022, each plastic trash bag sold or offered  
3 for sale in the State would be required to contain at least 10 percent  
4 recycled content, but this provision would not apply to bags  
5 designed and manufactured to hold, store, or transport hazardous  
6 waste or medical waste.

7 Under the bill, a manufacturer would be permitted to apply to the  
8 department for a waiver from, or reduction in, the recycled content  
9 requirements of the bill. The department would be authorized to  
10 grant a waiver or other relief if the manufacturer demonstrates, and  
11 the department finds, that it is not technologically feasible for the  
12 manufacturer to achieve the recycled content requirements, or the  
13 manufacturer cannot achieve the requirements due to a lack of  
14 available recycled material or other anomalous market conditions.

15 Under the bill, beginning January 1, 2022, a person would be  
16 prohibited from selling, or offering for sale in the State, polystyrene  
17 loose fill packaging, commonly known as “packing peanuts.”

18 Under the bill, each manufacturer would be required to certify,  
19 in writing, to the DEP each year that the rigid plastic containers,  
20 plastic beverage containers, glass containers, paper carryout bags,  
21 reusable carryout bags made of plastic film, or plastic trash bags  
22 sold, offered for sale, or used in association with the sale or offer  
23 for sale of a product in the State are in compliance with the  
24 requirements of the bill, or are otherwise exempt or have been  
25 approved for a waiver or other relief. Each manufacturer would be  
26 required to maintain records that demonstrate, for all rigid plastic  
27 containers, plastic beverage containers, glass containers, paper  
28 carryout bags, reusable carryout bags made of plastic film, or  
29 plastic trash bags generated or produced by the manufacturer,  
30 whether and how the manufacturer has complied with the  
31 requirements of the bill, or for what reason, if any, the manufacturer  
32 is exempt or has been approved for a waiver or other relief. A  
33 manufacturer would be required to submit its records to the DEP  
34 upon request. The DEP would also be authorized to audit or  
35 investigate any manufacturer to assess its compliance with the  
36 requirements of the bill.

37 Any person who violates the provisions of the bill would be  
38 subject to a civil administrative penalty of not more than \$10,000,  
39 and each day during which the violation continues would constitute  
40 an additional, separate, and distinct offense. The DEP would be  
41 authorized to adopt a schedule of penalties to be applied under the  
42 bill. In addition to the assessment of a civil administrative penalty,  
43 the DEP would be authorized to assess a violator for the reasonable  
44 costs of any audit, investigation, or inspection which led to the  
45 establishment of a violation. Also, the DEP would be authorized to  
46 require a manufacturer to submit a corrective action plan detailing  
47 how the manufacturer will come into compliance with the bill.

1       The bill would establish a special, nonlapsing account in the  
2 Department of the Treasury to be known as the “Recycling  
3 Enhancement Penalty Account.” The account would be credited  
4 with all penalties collected under the bill, and any interest or  
5 investment income earned from the account. Moneys in the account  
6 would be used, upon appropriation by the Legislature, for the sole  
7 purpose of supporting recycling in the State. The DEP would make  
8 recommendations each year to the Legislature on appropriate uses  
9 of moneys in the account and transmit those recommendations to  
10 the appropriate legislative committees.

11       The bill would prohibit a municipality or county from adopting  
12 any rule, regulation, code, or ordinance regulating the recycled  
13 content of rigid plastic containers, plastic beverage containers, glass  
14 containers, paper carryout bags, reusable carryout bags made of  
15 plastic film, or plastic trash bags after the effective date of the bill.  
16 The bill would also supersede and preempt any municipal or county  
17 rule, regulation, code, or ordinance regulating the recycled content  
18 of those items.