

**ASSEMBLY, No. 2775**

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**STATE OF NEW JERSEY**

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**221st LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

**Sponsored by:**  
**Assemblyman LOUIS D. GREENWALD**  
**District 6 (Burlington and Camden)**

**SYNOPSIS**

Prohibits sale, distribution, and import of certain products marketed as recyclable, unless DEP determines that products are widely recycled.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1   AN ACT concerning the recyclability of certain products,  
2   supplementing P.L.1960, c.39 (C.56:8-1 et seq.) and P.L.1987,  
3   c.102 (C.13:1E-99.11 et seq.), and amending P.L.1989, c.268.  
4

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

7

8       1. (New section) a. It shall be an unlawful practice and a  
9   violation of P.L.1960, c.39 (C.56:8-1 et seq.) for any person to offer  
10   for sale, sell, distribute, or import into the State any product or  
11   packaging for which a deceptive or misleading claim about the  
12   recyclability of the product or packaging is made.

13       b. Except as provided in subsection c. of this section, a product  
14   or packaging that displays a chasing arrows symbol, a chasing  
15   arrows symbol surrounding a resin identification code, or any other  
16   symbol or statement indicating the product or packaging is  
17   recyclable, or otherwise directing the consumer to recycle the  
18   product or packaging, shall be considered a deceptive or misleading  
19   claim pursuant to this section, unless the product or packaging is  
20   considered recyclable in the State pursuant to section 2 of P.L. , c.  
21   (C. ) (pending before the Legislature as this bill) and is of a  
22   material type and form that routinely becomes feedstock used in the  
23   production of new products or packaging.

24       (1) If a product or packaging has multiple material types, a  
25   chasing arrows symbol or statement indicating recyclability may be  
26   displayed on its external packaging if the external packaging is  
27   considered to be recyclable in the State pursuant to section 2 of  
28   P.L , c. (C. ) (pending before the Legislature as this bill),  
29   and if the chasing arrows symbol or statement makes clear, in the  
30   same or greater font size or symbol size, which other components of  
31   the product or packaging are not recyclable.

32       (2) Displaying a chasing arrows symbol or any other statement  
33   indicating recyclability on packaging containing a consumable  
34   product shall, for the purposes of this section, be deemed to refer  
35   only to the packaging.

36       c. The provisions of this section shall not apply to:

37       (1) any product or packaging that is manufactured up to 18  
38   months after the date the Department of Environmental Protection  
39   publishes the first material characterization study required pursuant  
40   to section 2 of P.L. , c. (C. ) (pending before the Legislature  
41   as this bill), or before January 1, 2024, whichever is later;

42       (2) any product or packaging manufactured up to 18 months  
43   after the date the Department of Environmental Protection updates  
44   the material characterization study pursuant to section 2 of P.L. ,

**EXPLANATION – Matter enclosed in bold-faced brackets **thus** in the above bill is  
not enacted and is intended to be omitted in the law.**

Matter underlined **thus** is new matter.

1       c. (C. ) (pending before the Legislature as this bill), if the  
2       product or packaging satisfied or, for a new product or packaging,  
3       would have satisfied, the requirements to be considered recyclable  
4       in the State before the publication of the updated study;

5           (3) the use of a chasing arrows symbol in combination with a  
6       clearly visible line placed at a 45-degree angle over the chasing  
7       arrows symbol to convey that an item is not recyclable;

8           (4) any product or packaging that is required by any federal or  
9       State law, rule, or regulation to display a chasing arrows symbol,  
10      including, but not limited to, Section 103(b)(1) of the federal  
11      Mercury-Containing and Rechargeable Battery Management Act  
12      (42 U.S.C. Sec. 14322(b)(1));

13           (5) text or symbols that direct a consumer to compost or  
14      properly dispose of any product or packaging through an organics  
15      recycling program; or

16           (6) the use of a resin identification code placed inside a solid  
17      equilateral triangle.

18       d. For the purposes of this section:

19           "Consumable product" means a commodity that is intended to be  
20      used and not disposed of.

21           "Chasing arrows symbol" means an equilateral triangle, formed  
22      by three arrows curved at their midpoints, depicting a clockwise  
23      path, with a short gap separating the apex of each arrow from the  
24      base of the adjacent arrow. "Chasing arrows symbol" also includes  
25      variants of that symbol that are likely to be interpreted by a  
26      consumer as an implication of recyclability, including, but not  
27      limited to, one or more arrows arranged in a circular pattern or  
28      around a globe.

29

30       2. (New section) a. On or before January 1, 2024, in order to  
31      provide information to the public sufficient for evaluating whether a  
32      product or packaging is recyclable in the State and is of a material  
33      type and form that routinely becomes feedstock used in the  
34      production of new products or packaging, the department shall  
35      conduct a material characterization study of material types and  
36      forms that are collected, sorted, sold, or transferred by recycling  
37      centers and solid waste facilities deemed appropriate by the  
38      department for inclusion in the study. The study shall identify the  
39      products and forms of packaging that are deemed to be recyclable in  
40      the State and permitted to display the chasing arrows symbol  
41      pursuant to section 1 of P.L. , c. (C. ) (pending before the  
42      Legislature as this bill).

43           (1) The department shall update the material characterization  
44      study required pursuant to this subsection every five years, with the  
45      first update being issued by the department no later than January 1,  
46      2027.

47           (2) For purposes of studying a representative sample of material  
48      types and forms in the State, within 90 days after receiving a

1 request from the department, a recycling center shall allow for  
2 periodic sampling conducted by a designated representative of the  
3 department on a mutually-agreed upon date and time. The  
4 department shall not request a periodic sampling of a recycling  
5 center if that center was sampled during the previous 24 months.

6       (3) For each material characterization study conducted pursuant  
7 to this subsection, the department shall publish on its Internet  
8 website the preliminary findings of the study and conduct a public  
9 hearing to present the preliminary findings and receive public  
10 comments. The hearing shall occur at least 30 days after the  
11 department publishes the preliminary findings. The department  
12 shall provide public notice of the hearing by posting the time, date,  
13 and location on its Internet website at least 30 days prior to the  
14 hearing. After receiving and considering public comments, and  
15 within 60 days after the hearing, the department shall finalize the  
16 findings of the study and publish the study on its Internet website.

17       (4) The department's activities pursuant to this subsection,  
18 including the department's determination of the appropriate  
19 recycling centers to include in the material characterization study,  
20 shall be exempt from the provisions of the "Administrative  
21 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

22       b. Except as provided in subsection c. of this section, a product  
23 or packaging shall be considered recyclable in the State if, based on  
24 information published by the department pursuant to subsection a.  
25 of this section, the product or packaging is of a material type and  
26 form that meets both of the following requirements:

27           (1) the material type and form is collected for recycling by  
28 curbside recycling programs for jurisdictions that collectively  
29 encompass at least 60 percent of the population of the State; and

30           (2) the material type and form is sorted into defined streams for  
31 recycling by transfer stations, materials recovery facilities, or  
32 recycling centers that collectively serve at least 60 percent of  
33 recycling programs Statewide, with the defined streams sent to and  
34 utilized at a facility that transforms the materials into usable  
35 products or feedstocks.

36       c. A product or packaging shall not be considered recyclable  
37 pursuant to this section, if the product or packaging:

38           (1) includes any components, inks, adhesives, or labels that  
39 prevent the recyclability of the packaging according to the APR  
40 Design Guide published by the Association of Plastic Recyclers;

41           (2) contains an intentionally added chemical that has been  
42 identified as hazardous pursuant to the "Worker and Community  
43 Right to Know Act," P.L.1983, c.315 (C.34:5A-1 et seq.);

44           (3) is made from plastic or fiber that contains perfluoroalkyl or  
45 polyfluoroalkyl substances that (a) a manufacturer has intentionally  
46 added to the product or packaging and that have a functional or  
47 technical effect in the product or packaging, including

1 subcomponents and intentional breakdown products of other  
2 intentionally added chemicals, or (b) are present in a concentration  
3 at or above 100 parts per million, as measured in total organic  
4 fluorine.

5 d. Notwithstanding the provisions of section b. and c. of this  
6 section to the contrary:

7 (1) any product or packaging shall be deemed by the department  
8 to be recyclable in the State if the product or packaging has a  
9 demonstrated recycling rate of at least 75 percent, meaning that not  
10 less than 75 percent of the product or packaging sorted and  
11 aggregated in the State is reprocessed into new products or  
12 packaging;

13 (2) prior to January 1, 2030, a product or packaging that is not  
14 collected through a curbside collection program shall be deemed by  
15 the department to be recyclable, if the non-curbside collection  
16 methods in the State recover at least 60 percent of the product or  
17 packaging used in the State and the material has sufficient  
18 commercial value to be marketed for recycling and be transported at  
19 the end of its useful life to a transfer station, materials recovery  
20 facility, or recycling center to be sorted and aggregated into defined  
21 streams by material type and form;

22 (3) after January 1, 2030, a product or packaging that is not  
23 collected through a curbside collection program shall be deemed by  
24 the department to be recyclable, if the non-curbside collection  
25 methods in the State recover at least 75 percent of the product or  
26 packaging used in the State and the material has sufficient  
27 commercial value to be marketed for recycling and be transported at  
28 the end of its useful life to a transfer station, materials recovery  
29 facility, or recycling center to be sorted and aggregated into defined  
30 streams by material type and form; and

31 (4) a product or packaging shall be deemed by the department to  
32 be recyclable, if the product or packaging is part of, and in  
33 compliance with, a program established pursuant to State or federal  
34 law on or after January 1, 2022, governing the recyclability or  
35 disposal of that product or packaging, and if the department  
36 determines that the product or packaging will not increase  
37 contamination of curbside recycling or deceive consumers as to the  
38 recyclability of the product or packaging.

39 e. The department may adopt rules and regulations, pursuant to  
40 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
41 seq.), to require the operator of any recycling center in the State to  
42 annually submit to the department each year (a) information about  
43 how the material collected or processed by the center was collected,  
44 and (b) what material types and forms are actively recycled, and not  
45 considered contaminants, by the center.

46 f. Nothing in this section shall be construed to limit the

1 discretion of a solid waste management district under existing law  
2 to decide whether, and to what extent, a material type or form shall  
3 be accepted under a district recycling plan.

4 g. As used in this section, "chasing arrows symbol" means the  
5 same as the term is defined in section 1 of P.L. , c. (C. )  
6 (pending before the Legislature as this bill).

7

8 3. Section 2 of P.L.1989, c.268 (C.13:1E-99.41) is amended to  
9 read as follows:

10 2. a. On or after January 1, 1991, no person shall sell, offer for  
11 sale, or distribute any plastic bottle or plastic container in this State  
12 unless the bottle or container is labeled with a material code  
13 indicating the plastic resin used to produce the bottle or container.  
14 Any plastic bottle or plastic container with a label or basecup  
15 affixed thereto, the composition of which consists of a different  
16 material than the bottle or container itself, shall be coded by its  
17 basic material.

18 b. The material code shall consist of a uniform symbol and  
19 identification number, and an acronym comprising no more than  
20 five letters. The symbol shall consist of a [triangular-shaped  
21 configuration of three arrows with a specific number placed within  
22 the center of the symbol to indicate the composition of the material  
23 used to produce the bottle or container. The acronym shall be  
24 placed below the triangle of arrows. The triangle shall be  
25 equilateral, formed by three arrows with the apex of each point of  
26 the triangle at the midpoint of each arrow, rounded with a short  
27 radius. The pointer (arrowhead) of each arrow shall be at the  
28 midpoint of each side of the triangle with a short gap separating the  
29 pointer from the base of the adjacent arrow. The triangle, formed  
30 by the three arrows curved at their midpoints shall depict a  
31 clockwise path around the code number] a solid equilateral triangle.

32 c. The material code shall consist of an identification number  
33 and acronym as follows:

- 34 (1) Polyethylene terephthalate: "1" and "PETE";
- 35 (2) High density polyethylene: "2" and "HDPE";
- 36 (3) Vinyl: "3" and "V";
- 37 (4) Low density polyethylene: "4" and "LDPE";
- 38 (5) Polypropylene: "5" and "PP";
- 39 (6) Polystyrene: "6" and "PS"; and
- 40 (7) All other plastic resins and laminates: "7" and "OTHER".

41 d. The commissioner shall maintain on file in the department  
42 for public inspection copies of the material code provided in  
43 subsection c. of this section. The department shall provide a copy  
44 to any person upon request.

45 (cf: P.L.1989, c.268, s.2)

46

47 4. This act shall take effect immediately.

1 STATEMENT  
2

3 This bill would make the sale, import, or distribution of any  
4 product or packaging that makes a deceptive or misleading claim  
5 about the recyclability of the product or packaging a violation of  
6 P.L.1960, c.39 (C.56:8-1 et seq.), commonly known as the  
7 "Consumer Fraud Act."

8 Specifically, the bill would prohibit the sale, offering for sale,  
9 import, and distribution of products that use the "chasing arrows"  
10 recycling symbol (the well-known symbol that depicts a triangle  
11 composed of three arrows), unless the product is determined by the  
12 Department of Environmental Protection (DEP) to be recyclable in  
13 the State through material characterization study carried out and  
14 updated pursuant to the bill. The bill would establish certain  
15 exceptions for this prohibition, as enumerated in subsection c. of  
16 section 1 of the bill, including for products that are manufactured up  
17 to 18 months after the DEP carries out or updates the material  
18 characterization study. As provided by section 1 of P.L.1966, c.39  
19 (C.56:8-13), an unlawful practice under the Consumer Fraud Act is  
20 punishable by a monetary penalty of not more than \$10,000 for a  
21 first offense and not more than \$20,000 for any subsequent offense.  
22 In addition, a violation can result in cease and desist orders issued  
23 by the Attorney General, the assessment of punitive damages and  
24 the awarding of treble damages and costs to the injured.

25 The bill would direct the DEP to conduct a material  
26 characterization study of material types and forms that are  
27 collected, sorted, sold, or transferred by recycling centers and solid  
28 waste facilities in the State. The study would be required to  
29 identify the products and forms of packaging that are deemed to be  
30 recyclable in the State and therefore permitted to display the  
31 chasing arrows symbol pursuant to section 1 of the bill. The first  
32 study would be required to be conducted by January 1, 2024, the  
33 second study by January 1, 2027, and subsequent studies every five  
34 years after 2027. The bill would also require the DEP to hold a  
35 public meeting on its findings prior the final publication of each  
36 study. The bill would establish certain requirements regarding the  
37 DEP's identification of recyclable products, as enumerated in  
38 subsections b. through d. of section 2 of the bill. In particular, the  
39 bill would require that products and packaging that are (1) collected  
40 by curbside recycling programs that collectively account for 60  
41 percent of the State's population, and (2) sorted into defined streams  
42 for recycling processes by transfer stations, materials recovery  
43 facilities, or recycling centers that collectively serve at least 60  
44 percent of recycling programs Statewide would be deemed  
45 recyclable by the DEP. The bill would also explicitly exclude  
46 certain products – such as those that contain hazardous chemicals or  
47 perfluoroalkyl or polyfluoroalkyl substances (PFAS) – from being  
48 deemed recyclable by the DEP. In addition, the bill would direct

1 the DEP to deem certain other products recyclable, as described in  
2 subsection d. of section 2 of the bill, including certain products that  
3 are widely recycled through non-curbside collection programs.

4 The bill would also authorize the DEP to adopt rules and  
5 regulations that would require the operators of recycling centers in  
6 the State to provide certain information each year to the DEP, in  
7 order to assist with its material characterization study.

8 Finally, the bill would amend existing law, which requires the  
9 using of the chasing arrows symbol on certain plastic bottles and  
10 containers sold in the State, in order to make it consistent with the  
11 bill's provisions.