

AMENDED IN ASSEMBLY MAY 28, 2010

AMENDED IN ASSEMBLY APRIL 14, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2398

Introduced by Assembly Member John A. Perez

February 19, 2010

An act to *amend Section 12209 of the Public Contract Code, and to add Chapter 20 (commencing with Section 42970) to Part 3 of Division 30 of the Public Resources Code, relating to recycling.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2398, as amended, John A. Perez. Product stewardship: ~~carpet.~~
carpet: public procurement.

The

(1) *The California Integrated Waste Management Act of 1989, administered by the Department of Resources Recycling and Recovery, is required to reduce, recycle, and reuse solid waste generated in the state to the maximum extent feasible in an efficient cost-effective manner to conserve water, energy, and other natural resources.*

The bill would require, by September 30, 2011, a producer or the carpet stewardship organization created by one or more producers of a carpet a manufacturer of carpets sold in this state, individually or through a carpet stewardship organization, to submit a carpet stewardship plan to the department, which would be required to include specified elements, including product goals and a collection rate for the carpet subject to the plan, calculated in a specified manner a funding mechanism that provides sufficient funding to carry out the plan, including administrative, operational, and capital costs of the plan.

~~The department would be required to review a carpet stewardship plan submitted to the department and deem the plan either complete or incomplete within 45 days after receipt to, among other things, within 60 days after the department receives a plan, review and determine whether the plan is complete and notify the submitter of its determination.~~

~~The bill would prohibit a producer, manufacturer, wholesaler, or retailer, on and after January 1, 2012 April 1, 2012, from selling a carpet unless the plan for that carpet is deemed complete by the department in compliance with the act's requirements. The act would require a producer of carpet or the carpet stewardship organization to implement the carpet stewardship plan, including achieving the collection rate meet specified targets in order to be in compliance.~~

~~Each producer or carpet stewardship organization implementing a carpet stewardship plan manufacturer of carpet sold in the state, individually or through a carpet stewardship organization, would be required to prepare and submit to the department an annual report describing the activities carried out pursuant to the carpet stewardship plan.~~

~~A producer manufacturer or carpet stewardship organization submitting a carpet stewardship plan would be required to pay the department an annual administrative fee when submitting the plan for review and approval and to pay an annual administrative fee, as determined by the department. The bill would provide for the imposition of administrative civil penalties upon a producer who does not comply with the bill's requirements or a producer, wholesaler, or retailer selling carpet in violation of the bill. The bill would create the Carpet Stewardship Account in the existing Integrated Waste Management Fund and would require that the administrative fees be deposited into that account and that the penalties be deposited into the Carpet Stewardship Penalty Subaccount that the bill would create in that account. The bill would authorize the fees and penalties to be expended, upon appropriation by the Legislature, to cover the department's program implementation costs and as incentives to enhance recyclability and redesign efforts and to reduce environmental and safety impacts of carpet person who sells carpet in violation of the bill.~~

~~(2) Existing law provides various procedures and requirements pertaining to the purchase of recycled items by the state, including, among other things, recycled paper products, plastic products, metal products, and paint.~~

This bill would additionally provide requirements for the purchase of carpet.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. The Legislature finds and declares all of the*
2 *following:*

3 *(a) Discarded carpet is one of the 10 most prevalent waste*
4 *materials in California landfills, equaling 3.2 percent of waste by*
5 *volume disposed of in California in 2008. Because carpet is heavy*
6 *and bulky, it imposes a significant solid waste management cost*
7 *on local governments.*

8 *(b) In 2002 the carpet industry entered into a carpet*
9 *memorandum of understanding (MOU) with the State of California*
10 *to achieve a goal of diverting from landfills 40 percent of discarded*
11 *carpet and recycling 20 percent of discarded carpet by 2012. Since*
12 *2002, however, the carpet recycling rate has never reached 5*
13 *percent and in 2008, the most recent year for which data are*
14 *available, the state's carpet recycling rate was 4.3 percent.*

15 *(c) As part of its fulfillment of the state's obligations under the*
16 *carpet MOU, the former Integrated Waste Management Board*
17 *made loans to various carpet recycling businesses in the state.*
18 *Those loans are now at risk, and employment in the carpet*
19 *recycling sector has dropped in recent years due to the continuing*
20 *low carpet recycling rate.*

21 *(d) Numerous products can be manufactured from recycled*
22 *carpets, including carpet, carpet underlayment, automobile parts,*
23 *picnic tables, park benches, and erosion control products.*

24 *(e) It is in the interest of the state to work with the carpet*
25 *industry to take additional steps to increase the collection and*
26 *recycling of discarded carpet into new products in order to reduce*
27 *the environmental and economic impacts of carpet as a waste*
28 *material and to create and sustain jobs in the state's carpet*
29 *recycling industry.*

30 *SEC. 2. Section 12209 of the Public Contract Code is amended*
31 *to read:*

32 12209. For purposes of this article, the following minimum
33 content requirements apply:

- 1 (a) Recycled paper products shall consist of at least 30 percent,
2 by fiber weight, postconsumer fiber.
- 3 (b) (1) Recycled printing and writing paper shall consist of at
4 least 30 percent, by fiber weight, postconsumer fiber.
- 5 (2) Printed newspapers that meet the requirements of Chapter
6 15 (commencing with Section 42750) of Part 3 of Division 30 of
7 the Public Resources Code shall be considered in compliance with
8 the requirements of this section.
- 9 (c) For recycled compost, cocompost, and mulch, at least 80
10 percent of the product shall consist of materials, including, but not
11 limited to, the materials listed in subdivision (c) of Section 12207,
12 that would otherwise be normally disposed of in landfills.
- 13 (d) For recycled glass, the total weight shall consist of at least
14 10 percent postconsumer material.
- 15 (e) Rerefined lubricating oil shall have a base oil content
16 consisting of at least 70 percent rerefined oil.
- 17 (f) (1) For recycled plastic products, other than printer or
18 duplication cartridges, the total weight shall consist of at least 10
19 percent postconsumer material.
- 20 (2) Recycled printer or duplication cartridges shall comply with
21 either the requirements set forth in subdivision (e) of Section 12156
22 or the general requirement for recycled plastic products set forth
23 in paragraph (1).
- 24 (g) Recycled paint shall have a recycled content consisting of
25 at least 50 percent postconsumer paint. Preconsumer or secondary
26 paint does not qualify as “recycled paint” pursuant to this
27 subdivision. If paint containing 50 percent postconsumer content
28 is unavailable, or is restricted by a local air quality management
29 district, a state agency may substitute paint with at least 10 percent
30 postconsumer content.
- 31 (h) Recycled antifreeze fluid shall have a recycled content of
32 at least 70 percent postconsumer materials.
- 33 (i) Retreaded tires ~~must~~ shall use an existing casing that has
34 undergone an approved or accepted recapping or retreading process,
35 in accordance with Chapter 7 (commencing with Section 42400)
36 of Part 3 of Division 30 of the Public Resources Code.
- 37 (j) For tire-derived products, the total content shall consist of
38 at least 50 percent recycled used tires.
- 39 (k) For recycled metal products, the total weight shall consist
40 of at least 10 percent postconsumer material.

1 (l) For reused or refurbished products, there is no minimum
2 content requirement.

3 (m) For recycled carpet, the total weight, including both fiber
4 and backing, shall consist of at least 25 percent postconsumer
5 carpet.

6 SEC. 3. Chapter 20 (commencing with Section 42970) is added
7 to Part 3 of Division 30 of the Public Resources Code, to read:

8

9

CHAPTER 20. PRODUCT STEWARDSHIP FOR CARPETS

10

11 42970. The purpose of the carpet stewardship program
12 established pursuant to this chapter is to require carpet
13 manufacturers to develop and implement a program to increase
14 the diversion of postconsumer carpet from landfills, increase the
15 recyclability of carpets, and promote the recycling of postconsumer
16 carpet into materials that are used to manufacture new products.

17

18 42971. For purposes of this chapter, and unless the context
19 otherwise requires, the definitions in this section govern the
20 construction of this chapter:

21

22 (a) "Brand" means a name, symbol, word, or mark that
23 identifies the carpet, rather than its components, and attributes
24 the carpet to the owner or licensee of the brand as the
25 manufacturer.

26

27 (b) (1) "Carpet" means a manufactured article that is used in
28 commercial or residential buildings affixed or placed on the floor
29 or building walking surface as a decorative or functional building
30 interior feature and that is primarily constructed of a top visible
31 surface of synthetic face fibers or yarns or tufts attached to a
32 backing system derived from synthetic or natural materials.

33

34 (2) "Carpet" includes, but is not limited to, a commercial or a
35 residential broadloom carpet or modular carpet tiles.

36

37 (3) "Carpet" does not include a rug, pad, cushion, or
38 underlayment used in conjunction with, or separately from, a
39 carpet.

39

(c) "Carpet stewardship organization" or "organization" means
36 either of the following:

37

38 (1) An organization appointed by one or more manufacturers
39 to act as an agent on behalf of the manufacturer to design, submit,
and administer a carpet stewardship plan pursuant to this chapter.

- 1 (2) A carpet manufacturer that complies with this chapter as
 2 an individual manufacturer.
- 3 (d) “Carpet stewardship plan” or “plan” means a plan written
 4 by an individual manufacturer or a carpet stewardship
 5 organization, on behalf of one or more manufacturers, that includes
 6 all of the information required by Section 42972.
- 7 (e) “Department” means the Department of Resources Recycling
 8 and Recovery.
- 9 (f) “Manufacturer” shall be determined, with regard to a carpet
 10 that is sold, offered for sale, or distributed in the state, as meaning
 11 one of the following:
- 12 (1) The person who manufactures the carpet and who sells,
 13 offers for sale, or distributes that carpet in the state under that
 14 person’s own name or brand.
- 15 (2) If there is no person who sells, offers for sale, or distributes
 16 the carpet in the state under the person’s own name or brand, the
 17 manufacturer of the carpet is the owner or licensee of a trademark
 18 or brand under which the carpet is sold or distributed in the state,
 19 whether or not the trademark is registered.
- 20 (3) If there is no person who is a manufacturer of the carpet for
 21 the purpose of paragraphs (1) and (2), the manufacturer of that
 22 carpet is the person who imports the carpet into the state for sale
 23 or distribution.
- 24 (g) “Program” means the system for the collection,
 25 transportation, recycling, and disposal of carpets pursuant to a
 26 completed carpet stewardship plan that is financed and managed
 27 or provided by an individual manufacturer or collectively by one
 28 or more manufacturers.
- 29 (h) “Retailer” means a person who offers new carpet in a retail
 30 sale, as defined in Section 6007 of the Revenue and Taxation Code,
 31 including a retail sale at retail through any means, including
 32 remote offerings such as sales outlets, catalogs, or an Internet
 33 Web site.
- 34 (i) “Sell” or “sales” means a transfer of title of a carpet for
 35 consideration, including a remote sale conducted through a sale
 36 outlet, catalog, or Internet Web site or similar electronic means,
 37 but does not include a lease.
- 38 (j) “Wholesaler” means a person who offers new carpets for
 39 sale in this state in a sale that is not a retail sale, as defined in

1 Section 6007 of the Revenue and Taxation Code, and in which the
2 carpet is intended to be resold.

3 42972. (a) On or before September 30, 2011, a manufacturer
4 of carpets sold in this state shall, individually or through a carpet
5 stewardship organization, submit a carpet stewardship plan to the
6 department that will do all of the following:

7 (1) Develop and implement a program, including measurable
8 goals established by the stewardship organization, that will
9 increase the diversion of postconsumer carpet from landfills,
10 increase the recyclability of carpets, and promote the recycling of
11 postconsumer carpet into materials that are used to manufacture
12 new products.

13 (2) Meet the requirements of Section 42975.

14 (3) Include a funding mechanism, consistent with subdivision
15 (b), that provides sufficient funding to carry out the program,
16 including the administrative, operational, and capital costs of the
17 plan.

18 (4) Include education and outreach efforts to consumers,
19 retailers, and waste haulers to promote the segregated collection
20 and recycling of postconsumer carpet.

21 (b) (1) The funding mechanism required pursuant to paragraph
22 (3) of subdivision (a) shall provide for an assessment per unit of
23 carpet sold in the state, as determined in the plan, to be paid by
24 each member of the carpet stewardship organization in an amount
25 that cumulatively will adequately fund the program. The assessment
26 shall be remitted to the carpet stewardship organization to be used
27 to carry out the program.

28 (2) The amount of the assessment and the anticipated revenues
29 from the assessment shall be specified in the plan and shall be
30 approved by the department as part of the plan. The assessment
31 shall be sufficient to meet, but not exceed, the anticipated cost of
32 carrying out the plan.

33 42973. Within 60 days after the department receives a plan
34 submitted pursuant to Section 42972, it shall review the plan,
35 determine whether it is complete, and notify the submitter of its
36 determination. If the department notifies the submitter that the
37 plan is not complete, the submitter shall revise and resubmit the
38 plan within 60 days after receiving the notification.

39 42974. On and after April 1, 2012, a manufacturer, wholesaler,
40 or retailer shall not offer a carpet for sale in this state or offer a

1 *carpet for promotional purposes in this state unless a plan*
2 *submitted by an organization that includes the manufacturer of*
3 *that carpet is in compliance with this chapter.*

4 42975. (a) *In order to achieve compliance with this chapter,*
5 *a carpet stewardship organization shall demonstrate to the*
6 *department that the following targets have been met:*

7 (1) *The amount of postconsumer carpet recycled in the state*
8 *shall equal or exceed 25 percent by January 1, 2017.*

9 (2) *The amount of postconsumer carpet recycled in the state*
10 *shall equal or exceed 50 percent by January 1, 2022.*

11 (b) *The percentage of carpet that has been recycled shall be*
12 *calculated by a method adopted by the department after consulting*
13 *with carpet stewardship organizations and taking into account the*
14 *information provided to the department pursuant to Section 42976.*

15 (c) *If more than one organization submits a carpet stewardship*
16 *plan pursuant to this chapter, the department shall use information*
17 *submitted by the organization in its annual report pursuant to*
18 *Section 42976 to determine the recycling rate attributable to each*
19 *organization and shall determine compliance with this chapter*
20 *accordingly.*

21 42976. *On or before July 1, 2013, and each year thereafter, a*
22 *manufacturer of carpet sold in the state shall, individually or*
23 *through a carpet stewardship organization, submit to the*
24 *department a report describing its activities since the previous*
25 *report. The report shall include all of the following:*

26 (a) *The total amount of carpet sold and postconsumer carpet*
27 *collected, by volume and weight, in the state during the reporting*
28 *period.*

29 (b) *The total amount of postconsumer carpet recycled, by volume*
30 *and weight, in the state during the reporting period.*

31 (c) *The total cost of implementing the carpet stewardship*
32 *program and other elements of the carpet stewardship plan.*

33 (d) *An evaluation of the effectiveness of the program, its funding*
34 *mechanism, and other elements of the plan and anticipated steps,*
35 *if needed, to improve performance.*

36 42977. (a) *The carpet stewardship organization submitting a*
37 *carpet stewardship plan shall pay the department an annual*
38 *administrative fee. The department shall set the fee at an amount*
39 *that, when paid by every carpet stewardship organization that*
40 *submits a carpet stewardship plan, is adequate to cover the*

1 *department's full costs of administering and enforcing this chapter.*
2 *The department may establish a variable fee based on relevant*
3 *factors, including, but not limited to, the portion of carpets sold*
4 *in the state by members of the organization compared to the total*
5 *amount of carpet sold in the state by all organizations submitting*
6 *a carpet stewardship plan.*

7 *(b) The total amount of annual fees collected pursuant to this*
8 *section shall not exceed the amount necessary to recover costs*
9 *incurred by the department in connection with the administration*
10 *and enforcement of the requirements of this chapter.*

11 *42978. (a) A civil penalty up to the following amounts may be*
12 *administratively imposed by the department on any person who*
13 *sells or offers for sale a carpet that has been prohibited from sale*
14 *pursuant to Section 42974:*

15 *(1) One thousand dollars (\$1,000) per violation.*

16 *(2) Ten thousand dollars (\$10,000) per violation if the violation*
17 *is intentional, knowing, or negligent.*

18 *(b) Any penalties collected by the department shall be used to*
19 *offset the cost of administering and enforcing this chapter.*

20 *42979. This article does not limit, supersede, duplicate, or*
21 *otherwise conflict with the authority of the Department of Toxic*
22 *Substances Control under Section 25257.1 of the Health and Safety*
23 *Code to fully implement Article 14 (commencing with Section*
24 *25251) of Chapter 6.5 of Division 20 of the Health and Safety*
25 *Code, including the authority of the department to include a carpet*
26 *in its product registry.*

27 ~~SECTION 1. The Legislature finds and declares all of the~~
28 ~~following:~~

29 ~~(a) Recycling carpets results in greater green house gas (GHG)~~
30 ~~emission reductions than most other products.~~

31 ~~(b) Carpets accounted for 3.2 percent of waste by volume~~
32 ~~disposed of in California in 2008.~~

33 ~~(c) Despite nationwide and California memoranda of~~
34 ~~understanding to promote carpet recycling, the carpet recycling~~
35 ~~rate has dropped from 4.9 percent in 2007 to 4.3 percent in 2008.~~

36 ~~(d) The California carpet industry memorandum of~~
37 ~~understanding targets a recycling rate of between 20 and 25 percent~~
38 ~~by 2012.~~

39 ~~(e) Because other types of recycling programs have proven to~~
40 ~~have limited success, state and regional governments in Europe~~

1 and Canada have adopted producer responsibility programs to
2 redirect the responsibility for the end-of-life management of
3 discarded hazardous and hard to manage products from local
4 governments and retailers primarily to producers.

5 (f) The former California Integrated Waste Management Board
6 adopted an overall Framework for an Extended Producer
7 Responsibility (EPR) guidance document as a policy priority in
8 January 2008.

9 (g) The program established by this act is intended to reduce
10 costs to local government, to harmonize the state's producer
11 responsibility obligations with other national and international
12 programs, and to enhance the protection of public health and the
13 environment through safer product design, use, and end-of-life
14 management.

15 SEC. 2. Chapter 20 (commencing with Section 42970) is added
16 to Part 3 of Division 30 of the Public Resources Code, to read:

17

18 CHAPTER 20. PRODUCT STEWARDSHIP FOR CARPETS

19

20 42970. For purposes of this chapter, and unless the context
21 otherwise requires, the definitions in this chapter govern the
22 construction of this chapter:

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

26 (b) (1) "Carpet" means a manufactured article that is used in
27 commercial or residential buildings affixed or placed on the floor
28 or building walking surface as a decorative or functional building
29 interior feature and that is primarily constructed of a top visible
30 surface of synthetic face fibers or yarns or tufts attached to a
31 backing system derived from synthetic or natural materials.

32 (2) "Carpet" includes, but is not limited to, a commercial or a
33 residential broadloom carpet or modular carpet tiles.

34 (3) "Carpet" does not include a rug, pad, cushion, or
35 underlayment used in conjunction with, or separately from, a
36 carpet.

37 (e) "Carpet producer stewardship" means requiring the producer
38 of a carpet, and all other entities involved in the distribution chain
39 of a carpet, to share in the responsibility of reducing the life cycle
40 impact of the carpet and its packaging, including requiring the

1 producer who makes design and marketing decisions for the carpet
2 to bear the primary responsibility for this reduction:

3 (d) “Carpet stewardship organization” or “organization” means
4 an organization appointed by one or more producers to act as an
5 agent on behalf of the producer to design, submit, and administer
6 a carpet stewardship plan pursuant to this chapter.

7 (e) “Carpet stewardship plan” or “plan” means a plan written
8 by an individual producer or a carpet stewardship organization,
9 on behalf of one or more producers, that includes all of the
10 information required by Section 42971.

11 (f) “Collection rate” means a quantitative measure established
12 in the carpet stewardship plan that establishes the amount of carpet
13 required to be collected by the carpet stewardship system for that
14 carpet by an established date. The collection rate is included as a
15 component of the product goals for a carpet.

16 (g) “Department” means the Department of Resources Recycling
17 and Recovery.

18 (h) “Producer” shall be determined, with regard to a carpet that
19 is sold, offered for sale, or distributed in the state, as meaning one
20 of the following:

21 (1) The person who manufactures the carpet and who sells,
22 offers for sale, or distributes that carpet in the state under that
23 person’s own name or brand.

24 (2) If there is no person who sells, offers for sale, or distributes
25 the carpet in the state under the person’s own name or brand, the
26 producer of the carpet is the owner or licensee of a trademark or
27 brand under which the carpet is sold or distributed in the state,
28 whether or not the trademark is registered.

29 (3) If there is no person who is a producer of the carpet for
30 purpose of paragraphs (1) and (2), the producer of that carpet is
31 the person who imports the carpet into the state for sale or
32 distribution.

33 (i) “Product goal” means those qualitative or quantitative goals
34 determined by the producer to measure improvements that reduce
35 the life cycle impacts of a carpet.

36 (j) “Program” means the system for the collection,
37 transportation, recycling, and disposal of carpets pursuant to a
38 completed carpet stewardship plan that is financed and managed
39 or provided by an individual producer or collectively by one or
40 more producers.

1 ~~(k) “Recycling rate” means a quantitative measure that~~
2 ~~establishes the amount of a collected carpet that is recycled as~~
3 ~~compared to the total amount of the carpet that is collected,~~
4 ~~including the amount of the carpet that is discarded for reuse,~~
5 ~~energy recovery, or safe disposal.~~

6 ~~(l) “Reporting period” means the period commencing January~~
7 ~~1 and ending on December 31 of the same calendar year.~~

8 ~~(m) “Retailer” means a person who offers new carpet in a retail~~
9 ~~sale, as defined in Section 6007 of the Revenue and Taxation Code,~~
10 ~~including a retail sale at retail through any means, including remote~~
11 ~~offerings such as sales outlets, catalogs, or an Internet Web site.~~

12 ~~(n) “Reuse rate” means a quantitative measure that establishes~~
13 ~~the amount of a collected carpet that is reused as compared to the~~
14 ~~total amount of the covered carpet that is collected, including the~~
15 ~~amount of the carpet that is discarded by recycling, energy~~
16 ~~recovery, or safe disposal.~~

17 ~~(o) “Sell” or “sales” means a transfer of title of a carpet for~~
18 ~~consideration, including a remote sale conducted through a sale~~
19 ~~outlet, catalog, or Internet Web site or similar electronic means,~~
20 ~~but does not include a lease.~~

21 ~~(p) “Wholesaler” means a person who offers new carpets for~~
22 ~~sale in this state in a sale that is not a retail sale, as defined in~~
23 ~~Section 6007 of the Revenue and Taxation Code, and in which the~~
24 ~~carpet is intended to be resold.~~

25 ~~42971. (a) On or before September 30, 2011, a producer or~~
26 ~~the carpet stewardship organization of a carpet shall submit a carpet~~
27 ~~stewardship plan to the department.~~

28 ~~(b) A producer, group of producers, or carpet stewardship~~
29 ~~organization shall consult with stakeholders during the~~
30 ~~development of the carpet stewardship plan, including soliciting~~
31 ~~stakeholder comments and responding to stakeholder comments~~
32 ~~prior to submitting the carpet stewardship plan.~~

33 ~~(c) Each carpet stewardship plan shall include, at a minimum,~~
34 ~~all of the following elements:~~

35 ~~(1) Contact information for all participating producers.~~

36 ~~(2) The collection rate for the carpets subject to the plan, which~~
37 ~~shall be calculated in the following manner, except as provided in~~
38 ~~Section 42973:~~

1 ~~(A) For the calendar year commencing January 1, 2014, the~~
2 ~~collection rate shall be 50 percent of the carpets sold by the~~
3 ~~producers subject to the plan during the previous calendar year.~~

4 ~~(B) On and after January 1, 2017, the collection rate shall be~~
5 ~~70 percent of the carpets sold by the producers subject to the plan~~
6 ~~during the previous calendar year.~~

7 ~~(C) The plan shall have a target of achieving a 95 percent~~
8 ~~collection rate.~~

9 ~~(3) A description containing all of the following elements:~~

10 ~~(A) Brands of the carpets covered by the plan.~~

11 ~~(B) How the product goals will be achieved.~~

12 ~~(C) The annual schedule for achievement of the collection rate.~~

13 ~~(D) Convenient collection opportunities for consumers in all~~
14 ~~counties of the state.~~

15 ~~(E) Reuse rate and recycling rate for carpets.~~

16 ~~(F) Roles and responsibilities of key players along the~~
17 ~~distribution chain.~~

18 ~~(G) Procedures to be used for notifying retailers and wholesalers~~
19 ~~of the program.~~

20 ~~(4) Financing method selected to sustainably fund the~~
21 ~~implementation of the plan.~~

22 ~~(5) Education and outreach activities to maximize collection~~
23 ~~rates.~~

24 ~~(d) A producer or carpet stewardship organization shall contact~~
25 ~~cities, counties, districts, and regional agencies, in whose~~
26 ~~jurisdictions the program will be implemented, to do either, or~~
27 ~~both, of the following:~~

28 ~~(1) Enter into an agreement to reimburse the local public agency~~
29 ~~for the cost of collecting carpets.~~

30 ~~(2) Provide the local public agency with the location, hours,~~
31 ~~and contact information for the convenient collection points for~~
32 ~~carpets that are located within the county where the local agency~~
33 ~~is located and are consistent with the plan.~~

34 ~~42972. (a) A carpet stewardship program shall be considered~~
35 ~~in compliance with this article only if it achieves the collection~~
36 ~~rate specified in a plan that has been deemed complete by the~~
37 ~~department pursuant to Section 42974.~~

38 ~~(b) If a program achieves a collection rate of 95 percent, the~~
39 ~~producer or carpet stewardship organization shall not be required~~

1 to pay the annual fee imposed pursuant to subdivision (a) of Section
2 42979.

3 ~~42973. A producer may petition the department for an~~
4 ~~adjustment to the collection rate. The department may grant an~~
5 ~~adjustment to the collection rate only if the department determines~~
6 ~~there are documented exigent circumstances that are beyond the~~
7 ~~control of the producer or carpet stewardship organization.~~

8 ~~42974. (a) The department shall review a plan within 45 days~~
9 ~~after the date the plan is received and either deem the plan complete~~
10 ~~or incomplete. If the department does not deem the plan complete,~~
11 ~~the department shall notify the producer or organization that~~
12 ~~submitted the plan of the deficiencies and the producer or~~
13 ~~organization shall revise and resubmit the plan within 45 days after~~
14 ~~receiving the notification. If the department deems the plan~~
15 ~~complete, the department shall, within 45 days after receipt, notify~~
16 ~~the producer or organization that the submitted plan is complete.~~

17 ~~(b) The department shall make all carpet stewardship plans~~
18 ~~submitted to the department available to the public on the~~
19 ~~department's Internet Web site.~~

20 ~~(c) A producer shall notify the department 30 days before~~
21 ~~instituting a significant or material change to a carpet stewardship~~
22 ~~plan.~~

23 ~~(d) On or before July 1, 2012, and on or before July 1 annually~~
24 ~~thereafter, the department shall post on its Internet Web site a~~
25 ~~listing of the brands of carpets for which the producer is in~~
26 ~~compliance with this article.~~

27 ~~42975. On and after January 1, 2012, a producer, wholesaler,~~
28 ~~or retailer shall not offer a carpet for sale in this state or offer a~~
29 ~~carpet for promotional purposes in this state unless the plan~~
30 ~~submitted by the producer or carpet stewardship organization of~~
31 ~~that carpet has been deemed complete by the department pursuant~~
32 ~~to Section 42974.~~

33 ~~42976. Upon receiving notification from the department~~
34 ~~pursuant to Section 42974 that a plan is complete, the producer or~~
35 ~~the carpet stewardship organization shall do all of the following:~~

36 ~~(a) Implement the plan, including, but not limited to, achieving~~
37 ~~the collection rate specified in the plan.~~

38 ~~(b) Pay the administrative fees imposed pursuant to subdivision~~
39 ~~(a) of Section 42979.~~

40 ~~(c) Submit the annual report required by Section 42978.~~

1 ~~42977. A wholesaler or a retailer that distributes or sells carpets~~
2 ~~shall monitor the department's Internet Web site to determine if~~
3 ~~the sale of a producer's carpets is in compliance with this article.~~

4 ~~42978. (a) On or before April 1, 2013, and every subsequent~~
5 ~~year thereafter, each producer or carpet stewardship organization~~
6 ~~implementing a plan shall prepare and submit to the department~~
7 ~~an annual report describing the activities carried out pursuant to~~
8 ~~the plan during the previous calendar year. The annual report shall~~
9 ~~include, but is not limited to, all of the following:~~

10 ~~(1) The extent to which each element of the plan specified in~~
11 ~~subdivision (c) of Section 42971 is attained, including, but not~~
12 ~~limited to, achieving the collection rate specified in the plan.~~

13 ~~(2) The actions that the producer will take during the next~~
14 ~~reporting period to meet the product goals specified in the plan~~
15 ~~that have not been met.~~

16 ~~(3) A report of the total sales data for carpets sold in the state~~
17 ~~for the previous calendar year.~~

18 ~~(b) The department shall review an annual report submitted~~
19 ~~pursuant to this section and shall deem it complete if the~~
20 ~~department determines the report contains the information required~~
21 ~~by this section.~~

22 ~~(c) If the department does not act on a report within 45 days of~~
23 ~~receipt, the report shall be deemed to be complete.~~

24 ~~(d) The department shall make all reports submitted to the~~
25 ~~department pursuant to this section available to the public on the~~
26 ~~department's Internet Web site.~~

27 ~~(e) If the collection rate for the carpets subject to the plan meets~~
28 ~~the collection rate specified in subdivision (b) of Section 42972,~~
29 ~~the report shall be submitted once every two years.~~

30 ~~42979. (a) The producer or carpet stewardship organization~~
31 ~~submitting a carpet stewardship plan shall pay the department an~~
32 ~~annual administrative fee. The department shall set the fee at an~~
33 ~~amount that, when paid by every producer and carpet stewardship~~
34 ~~program that submits a carpet stewardship plan, is adequate to~~
35 ~~cover the department's full costs of administering and enforcing~~
36 ~~this chapter. The department may establish a variable fee based~~
37 ~~on relevant factors including, but not limited to, the portion of~~
38 ~~carpets produced by the fee payer compared to the total amount~~
39 ~~of carpet produced by all producers or stewardship organizations~~
40 ~~submitting a carpet stewardship plan.~~

1 ~~(b) The total amount of annual fees collected pursuant to this~~
2 ~~section shall not exceed the amount necessary to recover costs~~
3 ~~incurred by the department in connection with the administration~~
4 ~~and enforcement of the requirements of this chapter.~~

5 ~~42980. (a) The Carpet Stewardship Account and the Carpet~~
6 ~~Stewardship Penalty Subaccount are hereby established in the~~
7 ~~Integrated Waste Management Fund.~~

8 ~~(b) All fees collected pursuant to this chapter shall be deposited~~
9 ~~in the Carpet Stewardship Account and may be expended by the~~
10 ~~department, upon appropriation by the Legislature, to cover the~~
11 ~~department's costs to implement this chapter.~~

12 ~~(c) All penalties collected pursuant to this chapter shall be~~
13 ~~deposited in the Carpet Stewardship Penalty Subaccount and may~~
14 ~~be expended by the department, upon appropriation by the~~
15 ~~Legislature, to cover the department's costs to implement this~~
16 ~~article.~~

17 ~~(d) All funds collected may be expended as incentives to~~
18 ~~enhance reuse, recyclability, and redesign efforts and to reduce~~
19 ~~environmental and safety impacts of carpet.~~

20 ~~42981. (a) If, after holding a public hearing, the department~~
21 ~~finds that a producer has failed to make a good faith effort to~~
22 ~~comply with this chapter, including, but not limited to, failing to~~
23 ~~submit a plan pursuant to Section 42971 or failing to submit an~~
24 ~~annual report pursuant to Section 42978, the department shall issue~~
25 ~~a compliance order with a schedule for achieving compliance.~~

26 ~~(b) If, after issuing an order and schedule for compliance~~
27 ~~pursuant to subdivision (a), the department finds that the producer~~
28 ~~has failed to make a good faith effort to comply with this chapter,~~
29 ~~the department may impose an administrative civil penalty of five~~
30 ~~thousand dollars (\$5,000) per day until the producer achieves~~
31 ~~compliance.~~

32 ~~(c) For purposes of this section, "good faith effort" means all~~
33 ~~reasonable and feasible efforts by a producer towards implementing~~
34 ~~the requirements of this chapter, including, but not limited to,~~
35 ~~meeting the performance goals specified in the plan.~~

36 ~~42982. (a) In addition to the penalty specified in Section~~
37 ~~42981, the department may impose an administrative civil penalty~~
38 ~~of five thousand dollars (\$5,000) per day against a producer,~~
39 ~~wholesaler, or retailer who violates Section 42975.~~

1 ~~(b) A producer, wholesaler, or retailer that removes from sale~~
2 ~~any carpet within 90 days of discovery that it is not in compliance~~
3 ~~with this chapter shall not be deemed to be in violation of Section~~
4 ~~42975.~~

5 ~~(c) Prior to enforcing any penalty pursuant to this section, the~~
6 ~~department shall issue a compliance order to the producer or retailer~~
7 ~~selling the carpet allowing 30 days from the date of the compliance~~
8 ~~order to cease sales of the carpet.~~

9 ~~42983. This article does not limit, supersede, duplicate, or~~
10 ~~otherwise conflict with the authority of the Department of Toxic~~
11 ~~Substances Control under Section 25257.1 of the Health and Safety~~
12 ~~Code to fully implement Article 14 (commencing with Section~~
13 ~~25251) of Chapter 6.5 of Division 20 of the Health and Safety~~
14 ~~Code, including the authority of the department to include a carpet~~
15 ~~in its product registry.~~

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