



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

SB3157

Introduced 2/2/2026, by Sen. Linda Holmes

SYNOPSIS AS INTRODUCED:

New Act
30 ILCS 105/5.1038 new

Creates the Lubricant and Related Product Producer Responsibility Act. Requires a producer of covered products to register with a producer responsibility organization and notify the Illinois Environmental Protection Agency. Prohibits an unregistered producer from selling, offering for sale, importing, or distributing a covered product in the State. Sets forth various requirements for a producer responsibility organization and a producer responsibility plan. Lists duties of a lubricant service provider and requires the Agency to provide certain information to a producer responsibility organization. Lists financial duties of the producer responsibility organization and the Agency. Requires participant producers, through the producer responsibility organization, to pay certain costs. Creates the Lubricant and Related Product Producer Responsibility Fund in the State treasury. Requires the producer responsibility organization to reimburse certain lubricant service providers for specified costs. Sets forth requirements for records, audits, and reports related to the producer responsibility organization. Prohibits a retailer, dealer, producer, or distributor from selling, distributing, offering for sale, or importing a covered product in or into the State unless certain requirements are met. Sets forth penalties for violations of the Act. Requires deposit of penalties into the Lubricant and Related Product Producer Responsibility Fund. Provides for judicial review of administrative decisions and for enforcement of judgments. Limits liability for anticompetitive conduct. Sets timelines for implementation of various parts of the Act. Allows the Agency to adopt rules that are necessary to implement and administer the Act. Defines terms. Makes conforming changes to the State Finance Act.

LRB104 16971 BDA 30385 b

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Lubricant and Related Product Producer Responsibility Act.

6 Section 5. Purpose. The purpose of this Act is to provide
7 for the safe and proper management of antifreeze, oil-based
8 lubricants, grease, engine additives, and other petroleum and
9 related fluids typically used in automotive, transportation,
10 and mechanical applications, as well as the original packaging
11 containing these products, at household hazardous waste
12 facilities in the State. In implementing this Act, the board,
13 the producer responsibility organization, and any approved
14 producer responsibility plan shall maintain and build on the
15 existing infrastructure in the State.

16 Section 10. Definitions. In this Act:

17 "Agency" means the Illinois Environmental Protection
18 Agency.

19 "Approved plan" means a producer responsibility plan that
20 has been approved by the Agency under Section 55 and that has
21 not been revoked by the Agency under Section 125.

22 (1) A conditionally approved plan is an approved plan,

1 except as used in Section 55.

2 (2) A partially approved plan is not an approved plan.

3 "Board" means the governing board under Section 25.

4 "Brand" means a name, symbol, word, or mark that
5 identifies a covered product rather than its components, and
6 attributes the covered product to the owner or licensee of the
7 brand as the producer.

8 "Collection center" means a secured site that is approved
9 by the Agency to be used as a base for household hazardous
10 waste collection and that collects covered products as defined
11 in this Act.

12 "Consumer" means a purchaser, owner, or lessee of a
13 covered product, including, without limitation, a person,
14 business, corporation, limited partnership, nonprofit
15 organization, or governmental entity.

16 "Contact information" means a name, physical address,
17 mailing address, email address, and phone number.

18 "Covered product" means a nonflammable petroleum-derived
19 or synthetic automotive product or other related products,
20 including, but not limited to, antifreeze, engine additives,
21 engine oils, oil filters, fuel additives, greases, marine
22 lubricants, oil-based lubricants, transmission and gear oils,
23 two-cycle oils, and other fluids typically used in automotive,
24 transportation, and mechanical applications commercially
25 available to a nonbusiness consumer and delivered to a
26 household hazardous waste facility. "Covered product" includes

1 the original packaging for any covered product of up to 15
2 gallons that is available to business and nonbusiness
3 consumers and sold in the State.

4 "Exclusive licensee" means a person holding the exclusive
5 right to use a brand in the State in connection with the
6 manufacture, sale, or distribution for sale of the covered
7 product in or into the State.

8 "Household hazardous waste" has the meaning ascribed to
9 that term in Section 3 of the Household Hazardous Waste
10 Collection Program Act.

11 "Lubricant service provider" means a hazardous waste
12 transporter registered with the Agency under Section 50.

13 "Participant producer" means a producer that is registered
14 with the producer responsibility organization.

15 "Producer" means:

16 (1) A producer is a person who manufactures a covered
17 product and who sells, offers for sale, or distributes a
18 covered product into the State under the person's own name
19 or brand.

20 (2) If there is no person in the State who is the
21 producer for purposes of paragraph (1), the producer of
22 the covered product is the owner or exclusive licensee of
23 a brand under which the covered product is sold or
24 distributed into the State.

25 (3) If there is no person in the State who is the
26 producer for purposes of paragraph (1) or (2), the

1 producer of the covered product is the person that imports
2 the covered product into the State for sale, distribution,
3 or installation.

4 (4) If there is no person in the State who is the
5 producer for purposes of paragraph (1), (2), or (3), the
6 producer of the covered product is the distributor,
7 retailer, dealer, or wholesaler who sells the product in
8 or into the State.

9 (5) For purposes of this Act, the sale of a covered
10 product shall be deemed to occur in the State if the
11 covered product is delivered to the consumer in the State.

12 "Producer responsibility organization" means an
13 organization that is exempt from taxation under Section
14 501(c)(3) of the federal Internal Revenue Code of 1986 and
15 that is appointed by one or more producers to act as an agent
16 on behalf of the producers to design, submit, administer, and
17 implement a producer responsibility plan and the requirements
18 of this Act.

19 "Producer responsibility plan" means the plan developed by
20 a producer responsibility organization for the collection,
21 transportation, and the safe and proper management of covered
22 products under Sections 55, 60, and 65 and submission to the
23 Agency for approval under Section 55.

24 "Recycling" means a method, technique, or process designed
25 to remove any contaminant from waste so as to render the waste
26 reusable, or any process by which materials that would

1 otherwise be disposed of or discarded are collected,
2 separated, or processed and returned to the economic
3 mainstream in the form of raw materials or products.

4 "Sell" or "sales" means a transfer of ownership of a
5 covered product for consideration, including a remote sale
6 conducted through a sales outlet, catalog, website, online
7 marketplace, or similar electronic means. "Sell" or "sales"
8 includes the purchase of a covered product by a consumer from a
9 manufacturer, wholesaler, or retailer.

10 Section 15. Producer registration.

11 (a) No later than 90 days after the Agency's approval of
12 the producer responsibility organization, each producer shall
13 register with the producer responsibility organization.

14 (b) No later than 30 days after the producer registers
15 with the producer responsibility organization, the producer,
16 or the producer responsibility organization on behalf of the
17 producer, shall notify the Agency electronically that the
18 producer has registered with the producer responsibility
19 organization.

20 (c) A producer shall register with the producer
21 responsibility organization in accordance with the procedures
22 and requirements established by the producer responsibility
23 organization.

24 (d) Upon approval of a producer responsibility plan under
25 Section 55, or January 1, 2032, whichever is sooner, a

1 producer shall not sell, offer for sale, import, or distribute
2 a covered product in the State unless all of the following
3 conditions are met:

4 (1) the producer is registered with the producer
5 responsibility organization;

6 (2) the covered product is accounted for in the
7 producer responsibility plan; and

8 (3) the Agency has approved the producer
9 responsibility plan.

10 (e) If an entity did not meet the definition of a producer
11 and was not subject to this Act, but, at any later point, meets
12 the definition of a producer, that entity shall be deemed a
13 producer at that point and shall register with the producer
14 responsibility organization and otherwise comply with the
15 requirements of this Act before beginning to sell, offer for
16 sale, import, or distribute a covered product in the State.

17 Section 20. Producer information to the Agency.

18 (a) No later than 180 days after the effective date of this
19 Act, a producer shall provide to the Agency, in a form and
20 manner established by the Agency, both of the following:

21 (1) the producer's contact information; and

22 (2) a list of covered products and brands of covered
23 products that the producer sells, distributes for sale,
24 imports for sale, or offers for sale in or into the State.

25 (b) A producer shall provide to the Agency updates to the

1 information described in subsection (a) on or before January
2 15 of each year, within 30 days of changes to the contact
3 information or list, and upon the Agency's request.

4 Section 25. Producer responsibility organization governing
5 board. The producer responsibility organization shall have a
6 governing board consisting of participant producers that
7 represent the diversity of covered products.

8 Section 30. Revocation of approval of the producer
9 responsibility plan. If the Agency determines that the
10 producer responsibility organization no longer meets the
11 requirements of this Act or fails to implement or administer
12 an approved plan in a manner that effectuates the purposes of
13 this Act, the Agency may revoke its approval of the producer
14 responsibility plan under Section 125 and may approve a
15 producer responsibility plan submitted by another producer
16 responsibility organization.

17 Section 35. Producer responsibility organization
18 notifications to the Agency. The producer responsibility
19 organization shall notify the Agency within 30 calendar days
20 of any of the following:

21 (1) the end of a 3-month period during which the
22 producer responsibility organization unsuccessfully
23 attempted to obtain a fee, records, or information from a

1 participant producer;

2 (2) the date that a producer no longer participates in
3 the producer responsibility organization's approved plan;
4 or

5 (3) any instance of noncompliance with this Act or
6 rules adopted under this Act by a participant producer.

7 Section 40. Convenient collection and management system.
8 Within 24 months of the Agency's approval of the producer
9 responsibility organization and its approved plan, the
10 producer responsibility organization shall provide a
11 convenient collection and management system for covered
12 products at no cost to residents.

13 Section 45. Needs assessment. The producer responsibility
14 organization may conduct a needs assessment to determine
15 appropriate strategies and investments needed to meet the
16 requirements of this Act.

17 Section 50. Lubricant service provider registration. A
18 lubricant service provider shall:

19 (1) provide for the transportation and management of
20 covered materials generated in the State under contractual
21 agreements with a producer responsibility organization or
22 arrangements with other entities that are entered into
23 under an approved producer responsibility plan;

1 (2) if the lubricant service provider is a unit of
2 local government or a political subdivision, provide at
3 least a one-year advance notice to the producer
4 responsibility organization if the unit of local
5 government or political subdivision plans to cease acting
6 as a lubricant service provider; and

7 (3) within 12 months of the effective date of this
8 Act, and annually thereafter, a lubricant service provider
9 seeking reimbursement for services provided under an
10 approved producer responsibility plan according to
11 Sections 55, 60, and 65 must register with the Agency by
12 submitting the following information:

13 (A) the contact information for a person
14 representing the service provider;

15 (B) the address of the service provider; and

16 (C) if applicable to services provided, a report
17 of the total amount billed for collection,
18 transportation, and processing of covered materials
19 provided during the preceding calendar year and, when
20 possible, values must be separated for collection,
21 transportation, and processing.

22 The Agency shall provide generic summary information
23 collected under this Section to an approved producer
24 responsibility organization.

25 Section 55. Producer responsibility plans.

1 (a) Within 12 months of the effective date of this Act, the
2 producer responsibility organization shall develop and submit
3 a proposed producer responsibility plan to the Agency, in a
4 form and manner determined by the Agency.

5 (b) (1) Within 6 months of receipt of a proposed producer
6 responsibility plan, the Agency shall approve, approve in
7 part, or disapprove the producer responsibility plan.

8 (2) The Agency shall determine a process for approving the
9 producer responsibility plan and any other information
10 submitted in compliance with this Act.

11 (3) Within 6 months of receiving the producer
12 responsibility plan, the Agency shall review and approve,
13 approve in part, or disapprove the producer responsibility
14 plan components related to safe handling, transportation, and
15 management of covered products. If the Agency approves in part
16 or disapproves any producer responsibility plan components,
17 the Agency shall notify the producer responsibility
18 organization of changes necessary for plan approval, and the
19 producer responsibility organization shall follow the process
20 outlined in paragraph (4).

21 (4) The Agency shall approve, approve in part, or
22 disapprove the producer responsibility plan. In making a
23 determination under this subsection, the Agency may solicit
24 information from producers, other agencies or departments, or
25 stakeholders, as it deems appropriate.

26 (c) If the Agency approves a proposed producer

1 responsibility plan, a revised producer responsibility plan,
2 or a conditionally approved plan, then the Agency shall notify
3 the producer responsibility organization of the approval. The
4 producer responsibility organization shall implement the
5 approved plan within 90 days of receipt of the notice of
6 approval, or as otherwise agreed to by the Agency.

7 (d) If the Agency disapproves a proposed producer
8 responsibility plan or a revised producer responsibility plan,
9 then the Agency shall notify the producer responsibility
10 organization of the disapproval and specify the reasons for
11 disapproval. Within 30 days of receipt of notice of
12 disapproval, the producer responsibility organization shall
13 submit a revised producer responsibility plan.

14 (e)(1) If the Agency approves a proposed producer
15 responsibility plan or a revised producer responsibility plan
16 in part, then the Agency shall notify the producer
17 responsibility organization of the partial approval and
18 identify the portions of the producer responsibility plan that
19 do not comply with this Act.

20 (2) Within 30 days of receipt of the notice of partial
21 approval, the producer responsibility organization shall
22 submit a revised producer responsibility plan to the Agency.

23 (3) The producer responsibility organization shall
24 implement the approved parts of the producer responsibility
25 plan within 90 days of receipt of the notice of partial
26 approval, or as otherwise agreed to by the Agency.

1 (f) Within 30 days of receipt of a revised producer
2 responsibility plan, the Agency shall approve, approve in
3 part, or disapprove the revised producer responsibility plan.

4 (g) If the Agency has not approved, approved in part, or
5 disapproved a producer responsibility plan within one year of
6 receipt of the producer responsibility plan, then the producer
7 responsibility plan shall be deemed conditionally approved and
8 the Agency shall notify the producer responsibility
9 organization of the conditional approval.

10 (h) The Agency may impose additional requirements for any
11 portion of a proposed producer responsibility plan, a revised
12 producer responsibility plan, or a conditionally approved plan
13 that does not comply with this Act and that has not been
14 approved.

15 (i) When reviewing a proposed producer responsibility
16 plan, a revised producer responsibility plan, or a
17 conditionally approved plan, the Agency may solicit
18 information from producers, other agencies or departments, or
19 stakeholders, as the Agency deems appropriate.

20 (j) The Agency may review an approved plan or a
21 conditionally approved plan at any time. If the Agency finds
22 that an approved plan or a conditionally approved plan is
23 deficient, then it may recommend modifications.

24 (k) Any substantial changes to an approved plan shall be
25 submitted to the Agency for approval.

26 (l)(1) An approved plan and a conditionally approved plan

1 shall be a public record, except that financial, production,
2 or sales data reported by the producer responsibility
3 organization to the Agency is not a public record and shall not
4 be open to public inspection. The Agency may release financial
5 or sales data in summary form only so the information cannot be
6 attributable to a specific entity.

7 (2) The producer responsibility organization may submit to
8 the Agency a redacted version of the approved plan or
9 conditionally approved plan that removes any proprietary or
10 confidential information.

11 (3) Within 90 days of approval, conditional approval, or
12 revision of a producer responsibility plan, the Agency shall
13 post on its website the producer responsibility plan and a
14 list of all the participant producers covered by the producer
15 responsibility plan.

16 (m) Within 24 months of the effective date of this Act, a
17 producer responsibility organization shall have a producer
18 responsibility plan approved or conditionally approved by the
19 Agency, and each producer shall be subject to an approved plan
20 or conditionally approved plan.

21 Section 60. Producer responsibility plan requirements. A
22 producer responsibility plan shall do all of the following:

23 (1) be designed to ensure the safe and convenient
24 collection and management of covered products statewide
25 and to ensure that performance-based standards are met

1 that include performance goals that, at a minimum, shall
2 include the following goal areas:

3 (A) statewide covered product collection rate
4 goals; and

5 (B) covered products packaging recycling rate
6 goals;

7 (2) include strategies to ensure elderly consumers,
8 disabled consumers, and other consumers with limited
9 mobility have access to the safe and proper collection and
10 management of covered products, including opportunities to
11 have covered products collected; collection strategies
12 shall include, but are not limited to:

13 (A) a description of how the producer
14 responsibility organization will ensure any covered
15 product with access to collection and recycling
16 services, following plan implementation, will continue
17 to have comparable access through the plan using a
18 methodology for more customized approaches to provide
19 90% of the State's residents access to a permanent
20 drop-off site within 15 miles for free and may include
21 temporary collection sites, in each county of the
22 State;

23 (B) a description of how a county with a
24 population more than 50,000 residents, as reported
25 annually by the State Comptroller, shall be provided
26 up to one additional, permanent drop-off site for

1 every 30,000 residents;

2 (C) a description of how collection strategies
3 provide for a reasonable geographic spread of
4 permanent collection sites and an explanation for the
5 geographic spread;

6 (D) a description of how the producer
7 responsibility organization will collaborate, as
8 necessary, to address automotive container collection
9 needs;

10 (E) a description of how the producer
11 responsibility organization will provide a depot
12 search tool on its website including location and
13 operating hours of sites accepting automotive
14 containers; and

15 (F) a description of how the producer
16 responsibility organization will approve lubricant and
17 covered material recyclers to fulfill the requirements
18 of the plan;

19 (3) include the contact information of each
20 participant producer;

21 (4) include a financial section of the plan that
22 demonstrates how the producer responsibility organization
23 will comply with Section 70, including, but not limited
24 to, a 5-year budget that demonstrates how the producer
25 responsibility organization will comply with paragraph (2)
26 of Section 70;

1 (5) include a section describing the producer
2 responsibility organization's contingency plan in the
3 event the producer responsibility plan expires or is
4 revoked; the contingency plan shall guarantee that all the
5 contracts, financial data, and any other necessary
6 authority and assets to operate the program shall vest in
7 a trustee approved by the Agency; the trustee shall
8 operate the most recently approved plan, subject to the
9 direction of the Agency, until the time that a new
10 producer responsibility plan is approved; upon expiration
11 or revocation of the producer responsibility plan, the
12 balance of the producer responsibility organization's
13 operating reserves collected shall be transferred to the
14 control of the trustee within 5 calendar days; all
15 documents, digital records, contracts, and files related
16 to the operation of the producer responsibility plan shall
17 be transferred to the control of the trustee within 5
18 calendar days;

19 (6) include a section describing a comprehensive
20 statewide education and outreach program designed to
21 educate consumers and promote participation in the program
22 offered by the producer responsibility organization; the
23 comprehensive statewide education and outreach program
24 shall do all of the following:

25 (A) promote the safe and proper management of a
26 covered product and shall not promote the disposal of

1 a covered product in a manner inconsistent with the
2 services offered by the producer responsibility plan;
3 and

4 (B) include information for consumers on how to
5 properly manage a covered product at the time of
6 disposal and how to avoid improper disposal of a
7 covered product; and

8 (7) include a description on how the producer
9 responsibility organization will leverage and use existing
10 and relevant collection programs and infrastructure.

11 Section 65. Revisions to producer responsibility plan.

12 (a) The producer responsibility organization shall review
13 its approved plan at least every 5 years and determine whether
14 revisions are necessary.

15 (b) If the producer responsibility organization determines
16 that revisions to its approved plan are necessary, the
17 producer responsibility organization shall submit to the
18 Agency a revised producer responsibility plan for review and
19 approval using the procedures set forth in Section 55. The
20 producer responsibility organization shall submit the revised
21 producer responsibility plan to the Agency at least 12 months
22 before the review deadline outlined in subsection (a). The
23 revised producer responsibility plan shall include a cover
24 letter that summarizes the revisions to the producer
25 responsibility plan.

1 (c) If the producer responsibility organization determines
2 that no revisions to the producer responsibility plan are
3 necessary, the producer responsibility organization shall send
4 a letter to the Agency 12 months before the review deadline
5 outlined in subsection (a) explaining that the producer
6 responsibility organization has reviewed the producer
7 responsibility plan and determined that no revisions are
8 needed. The Agency may disapprove the producer responsibility
9 organization's determination within 30 days of receipt of the
10 letter if the Agency concludes that the producer
11 responsibility organization cannot implement the objectives of
12 this Act without revising the producer responsibility plan. If
13 the Agency disapproves the producer responsibility
14 organization's determination, the Agency may indicate to the
15 producer responsibility organization which sections of the
16 producer responsibility plan need revision and the producer
17 responsibility organization shall submit to the Agency a
18 revised producer responsibility plan, or producer
19 responsibility plan sections, for review and approval,
20 following the procedures set forth in Section 55. The producer
21 responsibility organization shall submit the revised producer
22 responsibility plan under this subsection within 60 days of
23 receipt of the Agency's disapproval.

24 (d) The Agency may consult with or submit the revised
25 producer responsibility plan to another State agency or
26 department if the Agency determines it is necessary for making

1 its determination. The duration of time the Agency takes for
2 this consultation is not included in the time allotted to the
3 Agency for review under this Section.

4 Section 70. Financial duties of the producer
5 responsibility organization. The producer responsibility
6 organization shall do all of the following:

7 (1) establish a method for fully funding its producer
8 responsibility plan in a manner that equitably distributes
9 the producer responsibility plan's costs among participant
10 producers in a manner reflecting sales volumes and adjusts
11 those costs to account for the cost to manage the covered
12 products for which each participant producer is
13 responsible;

14 (2) operate on a budget that establishes a funding
15 level sufficient to operate the producer responsibility
16 organization in a prudent and responsible manner; the
17 budget shall demonstrate how the producer responsibility
18 organization's estimated revenues will cover all of the
19 producer responsibility organization's budgeted costs for
20 each cost category; budgeted cost categories shall
21 include, but not be limited to, administrative costs,
22 capital costs, and a reserve;

23 (A) administrative costs under this paragraph (2)
24 shall include the actual and reasonable regulatory
25 costs incurred by the Agency, which includes full

1 personnel costs, to implement and enforce this Act
2 upon approval of its producer responsibility plan,
3 except that costs shall include actual and reasonable
4 regulatory development costs and other startup costs
5 incurred before a producer responsibility plan's
6 submittal and approval; and

7 (B) the reserve under this paragraph (2) shall
8 include funds to operate the producer responsibility
9 organization if there are unexpected events, losses of
10 income, or large unbudgeted expenses; the reserve
11 shall also protect the infrastructure that the
12 producer responsibility organization relies on in its
13 producer responsibility plan during any lapse in
14 producer participation during the life of the program;
15 the reserve cost category shall include a reserve
16 level amount description justifying the reserve level
17 amount indicated; the producer responsibility
18 organization shall maintain reserve funds sufficient
19 to operate the producer responsibility plan for not
20 less than 6 months; when a new producer responsibility
21 organization is approved by the Agency, the producer
22 responsibility organization shall establish its
23 reserve and maintain the required reserve fund balance
24 by the end of the second year of producer
25 responsibility plan operation; if the producer
26 responsibility plan expires or is revoked, the reserve

1 balance shall be transferred to a successor producer
2 responsibility organization or a trustee under the
3 portion of the producer responsibility plan described
4 in paragraph (5) of Section 60;

5 (3) pay, on a schedule determined by the Agency, the
6 Agency fees to cover the Agency's actual and reasonable
7 regulatory costs, as described in Section 80;

8 (4) establish a process by which the financial
9 activities of the producer responsibility organization
10 that are related to implementation of the producer
11 responsibility plan will be subject to an independent
12 audit consistent with generally accepted accounting
13 principles;

14 (5) provide written certification by an authorized
15 representative of the producer responsibility organization
16 that, at the time of submission to the Agency, all aspects
17 of the producer responsibility plan are in compliance with
18 all applicable state and federal laws and regulations; and

19 (6) have adequate financial responsibility and
20 financial controls in place, including fraud prevention
21 measures, to ensure proper management of funds.

22 Section 75. Duties of participant producers to pay costs.
23 Each participant producer shall, through the producer
24 responsibility organization, pay all administrative and
25 operational costs associated with establishing and

1 implementing the producer responsibility organization's
2 approved plan, including the cost of the collection,
3 transportation, and safe and proper management of covered
4 products.

5 Section 80. Agency financial duties; Lubricant and Related
6 Product Producer Responsibility Fund.

7 (a) Within 4 months of the effective date of this Act, the
8 Agency shall notify the producer responsibility organization
9 of the estimated costs for the Agency resulting from this Act,
10 including administrative and other costs related to
11 implementing and enforcing this Act. The costs shall not
12 exceed the Agency's actual and reasonable costs to implement
13 and enforce this Act.

14 (b) The Agency shall deposit all moneys received from the
15 producer responsibility organization under this Section into
16 the Lubricant and Related Product Producer Responsibility
17 Fund, which is hereby created in the State treasury.

18 (c) Subject to appropriation, moneys in the Lubricant and
19 Related Product Producer Responsibility Fund shall be expended
20 only as directed by the Agency to implement and enforce this
21 Act.

22 Section 85. Reimbursement of certain lubricant service
23 providers.

24 (a) If the producer responsibility plan relies on a unit

1 of local government or other governmental or nongovernmental
2 entity to collect or manage a covered product or to otherwise
3 comply with Section 40, then the producer responsibility
4 organization shall reimburse the lubricant service provider
5 for the costs associated with the collection and management of
6 the covered product under mutually agreed-upon terms.

7 (b) Reimbursement under this Section shall be based on
8 market costs and the commodity value of covered materials.

9 (c) Reimbursement costs under subsection (a) shall be
10 limited to the proportional actual costs for covered products
11 for collection and management of a covered product by a
12 lubricant service provider. The lubricant service provider
13 must prorate the costs of services to local government
14 entities or private entities that offer collection of covered
15 products under this Act to reflect the reimbursements provided
16 under this subsection.

17 (d) Reimbursement costs under subsection (a) shall include
18 costs for transportation from a household hazardous waste
19 facility or other collection point or depot and costs for the
20 disposal and recycling of a covered product.

21 (e) A lubricant service provider seeking reimbursement for
22 services provided under an approved producer responsibility
23 plan under this Act must submit collection data for covered
24 products to the producer responsibility organization at least
25 quarterly.

26 (f) A lubricant service provider seeking reimbursement for

1 services provided under an approved producer responsibility
2 plan under this Act must provide the following information to
3 the producer responsibility organization:

4 (1) a list of the approved lubricant recyclers that
5 received covered products from the lubricant service
6 provider; and

7 (2) a list of the kinds of facilities and markets that
8 generated the covered material that the lubricant service
9 provider collected and delivered to an approved recycler.

10 (g) Upon appropriate notification from the producer
11 responsibility organization, a lubricant service provider must
12 provide nonconfidential information to the producer
13 responsibility organization to audit the volumes of material
14 delivered to recyclers.

15 Section 90. Records, audits, and reports.

16 (a) The producer responsibility organization shall keep
17 board minutes, books, and records that clearly reflect the
18 activities and transactions of the producer responsibility
19 organization for a period of not less than 5 years.

20 (b) The Agency may audit the producer responsibility
21 organization annually.

22 (c) It is a violation of this Act for the producer
23 responsibility organization, a participant producer, or their
24 agents to fail to produce documents or data that is requested
25 by the Agency or required to be collected or generated to carry

1 out operation of the producer responsibility plan in the form
2 and manner determined by the Agency as part of an Agency audit
3 or review of a third-party audit.

4 Section 95. Reports and records duties.

5 (a) A producer and the producer responsibility
6 organization shall do both of the following:

7 (1) provide the Agency, upon request, with reasonable
8 and timely access, as determined by the Agency, to its
9 facilities and operations, as necessary to determine
10 compliance with this Act; and

11 (2) within 14 days of a request from the Agency,
12 provide the Agency with relevant records, as determined by
13 the Agency, as necessary to determine compliance with this
14 Act.

15 (b) All reports and records provided to the Agency under
16 this Act shall be provided under penalty of perjury.

17 (c) The Agency may impose administrative civil penalties
18 under this Act on a producer or producer responsibility
19 organization that fails to provide the Agency with the access
20 required under this Section.

21 Section 100. Audits.

22 (a) The producer responsibility organization shall retain
23 an independent certified public accountant, certified in the
24 United States, to annually audit the accounting books of the

1 producer responsibility organization. The Agency shall review
2 the independent certified public accountant's audit for
3 compliance with this Act and consistency with the producer
4 responsibility organization's approved plan and the annual
5 report required by Section 105. After the Agency conducts its
6 own review, the Agency shall notify the producer
7 responsibility organization of (i) any conduct or practice
8 that does not comply with this Act or (ii) any inconsistencies
9 identified in the review. The producer responsibility
10 organization may obtain copies of the Agency's review,
11 including proprietary information contained in the Agency's
12 review, upon request. The producer or producer responsibility
13 organization may request that the Agency withhold from
14 disclosure trade secrets to the extent allowed under the
15 Freedom of Information Act.

16 (b) The items submitted to the Agency for its review of the
17 independent audit shall include all of the following:

18 (1) financial statements audited in accordance with
19 generally accepted accounting principles;

20 (2) an audit of the producer responsibility
21 organization's compliance with this Act; and

22 (3) an audit of the producer responsibility
23 organization's adherence to, execution of, and consistency
24 with its approved plan.

25 (c) The producer responsibility organization shall include
26 the independent audit in its annual report submitted to the

1 Agency under Section 105 commencing within 18 months of the
2 producer responsibility plan's approval by the Agency.

3 Section 105. Reports. On or before January 1 of each year,
4 the producer responsibility organization shall submit to the
5 Agency and make publicly available an annual report, in a
6 format prescribed by the Agency, that includes, at minimum,
7 all of the following information for the preceding calendar
8 year, unless otherwise specified:

9 (1) the producer responsibility organization's costs,
10 according to the cost categories established in the
11 producer responsibility plan, and revenues;

12 (2) a summary of any anticipated changes to
13 allocations in cost categories for the next calendar year;

14 (3) any changes to the distribution of costs to the
15 participant producers;

16 (4) updated contact information for participant
17 producers;

18 (5) the quantity of covered products sold in or into
19 the State by participant producers as determined by the
20 best available commercial data;

21 (6) a summary of efforts made as part of the
22 comprehensive statewide education and outreach program as
23 required by paragraph (6) of Section 60, including the
24 producer responsibility organization's evaluation of the
25 effectiveness of the program;

- 1 (7) recommendations for any future proposed
2 substantial changes to the producer responsibility plan;
3 and
4 (8) any other information required by this Act.

5 Section 110. Report compliance.

6 (a) No later than 120 days after the date the Agency
7 receives an annual report under Section 105, the Agency shall
8 notify the producer responsibility organization if the annual
9 report is compliant or noncompliant.

10 (b) If the Agency determines that the annual report is
11 noncompliant due to failure to meet the requirements of this
12 Act, the Agency may require the resubmittal of the annual
13 report and take enforcement action.

14 (c) The Agency may consult with or submit the annual
15 report to a State agency or department if it determines it is
16 necessary to determine the annual report's compliance or
17 noncompliance. The time the Agency takes for this consultation
18 shall not be included in the time allotted to the Agency for
19 review under subsection (a).

20 Section 115. Prohibition. A retailer, dealer, producer, or
21 distributor shall not sell, distribute, offer for sale, or
22 import a covered product in or into the State unless the
23 producer of the covered product is listed as a compliant
24 producer under Section 120 or received a certification letter

1 described in subsection (e) of Section 120.

2 Section 120. Compliant producers.

3 (a) Within 12 months of the effective date of this Act, and
4 on or before July 1 of each year thereafter, the Agency shall
5 publish on the Agency's website, a list of the names of
6 producers that are compliant with this Act. The Agency shall
7 list, as appropriate, the reported brands of covered products
8 for each producer.

9 (b) A retailer, producer, or distributor shall monitor the
10 Agency's website to determine if a producer, brand, or covered
11 product is in compliance with this Act.

12 (c) Notwithstanding any other provision of this Act, upon
13 identification of a producer that is not registered with the
14 producer responsibility organization with an approved plan,
15 the Agency shall issue a notice of noncompliance to the
16 producer.

17 (d) If the Agency determines a producer is not in
18 compliance with this Act, the Agency shall remove the producer
19 and its brands of covered products from the compliance list on
20 the Agency's website.

21 (e) The Agency shall provide a certification letter to a
22 producer that is not listed on the Agency's website as a
23 compliant producer, but that has demonstrated compliance with
24 this Act to the Agency. The certification letter shall state
25 that the producer is in compliance with this Act. The Agency

1 may update the compliance list on its website.

2 Section 125. Penalties.

3 (a) Violations of this Act or rules adopted under this Act
4 shall be enforceable by the Agency administratively imposing a
5 civil penalty under this Section. Whenever Agency personnel,
6 on the basis of direct observation, determine that any person
7 has violated any provision of this Act, the Agency may issue
8 and serve an administrative citation upon such person within
9 not more than 60 days after the date of the observed violation.
10 Each administrative citation issued shall be served upon the
11 person named therein or such person's authorized agent for
12 service of process and shall include the following
13 information:

14 (1) a statement specifying the provisions of the Act
15 or rules adopted under the Act that the person was
16 observed to violate;

17 (2) a copy of the report in which the Agency recorded
18 the violation, which report shall include the date and
19 time of the finding of the violation, and relevant
20 conditions prevailing during the inspection;

21 (3) the penalty imposed for the violation;

22 (4) instructions for contesting the administrative
23 citation findings, including notification that the person
24 has 35 days within which to file a petition for review
25 before the administrative law judge to contest the

1 administrative citation; and

2 (5) an affidavit by the personnel observing the
3 violation, attesting to their material actions and
4 observations.

5 The Agency shall file a copy of each administrative
6 citation served under this subsection of this Section with an
7 administrative law judge of the Agency no later than 10 days
8 after the date of service. If the person named in the
9 administrative citation fails to petition the administrative
10 law judge for review within 35 days from the date of service,
11 the administrative law judge shall adopt a final order, which
12 shall include the administrative citation and findings of
13 violation as alleged in the citation, and shall impose the
14 penalty specified. If a petition for review is filed before
15 the administrative law judge to contest an administrative
16 citation issued under this Section, the Agency shall appear as
17 a complainant at a hearing before the administrative law judge
18 at a time not less than 21 days after notice of such hearing
19 has been sent to the Agency and the person named in the
20 citation. In such hearings, the burden of proof shall be on the
21 Agency. If, based on the record, the administrative law judge
22 finds that the alleged violation occurred, the administrative
23 law judge shall adopt a final order that shall include the
24 administrative citation and findings of violation as alleged
25 in the citation and shall impose the penalty specified.
26 However, if the administrative law judge finds that the person

1 appealing the citation has shown that the violation resulted
2 from uncontrollable circumstances, the administrative law
3 judge shall adopt a final order that makes no finding of
4 violation and that imposes no penalty. The Illinois
5 Administrative Procedure Act shall apply to any administrative
6 citation issued under this Section, except as provided under
7 this Section. All final orders issued and entered by the
8 administrative law judge under this Section shall be
9 enforceable by injunction, mandamus, or other appropriate
10 remedy.

11 (b) The Agency may administratively impose on any person
12 who is in violation of this Act a civil penalty of up to the
13 following amounts:

14 (1) \$10,000 per day; or

15 (2) \$50,000 per day if the violation is intentional or
16 knowing.

17 (c) In assessing or reviewing the amount of a civil
18 penalty imposed under subsection (b) for a violation of this
19 Act, all of the following shall be considered:

20 (1) the nature and extent of the violation;

21 (2) the number and severity of the violations;

22 (3) the economic effect of the penalty on the
23 violator;

24 (4) whether the violator took good faith measures to
25 comply with this Act and the period of time during which
26 these noncompliant actions were taken;

1 (5) the willfulness of the violator's misconduct;

2 (6) the deterrent effect that the imposition of the
3 penalty would have on both the violator and the regulated
4 community; and

5 (7) any other factor that justice may require.

6 (d) Upon a written finding by an administrative law judge
7 under this Section that a producer responsibility
8 organization, producer, or any other party regulated under
9 this Act has not met a material requirement of this Act, in
10 addition to any other penalties authorized under this Act, the
11 Agency may take one or both of the following actions to ensure
12 compliance with the requirements of this Act, after affording
13 the producer responsibility organization, producer, or any
14 other party regulated under this Act, an opportunity to
15 respond to or rebut the finding:

16 (1) revoke the producer responsibility organization's
17 approved plan or require the producer responsibility
18 organization to resubmit the producer responsibility plan
19 or producer responsibility plan section; or

20 (2) require additional reporting relating to
21 compliance with the material requirements of this Act that
22 were not met.

23 (e) The Agency shall deposit all penalties collected under
24 this Section into the Lubricant Recycling Penalty Account,
25 which is hereby created in the Lubricant and Related Product
26 Producer Responsibility Fund. Subject to appropriation, moneys

1 in the Lubricant Recycling Penalty Account shall be available
2 for expenditure by the Agency for activities related to the
3 collection, reuse, and recycling of covered products, grants
4 for related purposes, and the administration and enforcement
5 of this Act.

6 (f) The Illinois Administrative Procedure Act applies to
7 hearings conducted under this Act, except as provided under
8 this Section, and mandates minimum due process requirements.

9 Section 130. Judicial review; enforcement of judgment. All
10 final administrative decisions of the Agency under this Act
11 are subject to judicial review under the Administrative Review
12 Law and its rules. The term "administrative decision" is
13 defined as in Section 3-101 of the Code of Civil Procedure.
14 After the time for judicial review under the Administrative
15 Review Law, the Agency may apply to the court in the county
16 where the penalties, restitution, or other remedy was imposed
17 by the Agency, for a judgment to collect any unpaid civil
18 penalties or restitution or to enforce any other remedy
19 provided by this Act. The application, which shall include a
20 certified copy of the final agency order or decision, shall
21 constitute a sufficient showing to warrant the issuance of the
22 judgment, and the circuit clerk shall enter the judgment
23 immediately in conformity with the application. The judgment
24 so entered shall have the same force and effect as, and shall
25 be subject to all laws relating to, a judgment in a civil

1 action and may be enforced in the same manner as any other
2 judgment of the court. The court shall make enforcement of the
3 judgment a priority.

4 Section 135. Immunities and exceptions.

5 (a) A manufacturer or representative organization
6 participating in a program authorized under this Act shall not
7 be liable for any claim of a violation of antitrust, restraint
8 of trade, unfair trade practice, or other anticompetitive
9 conduct arising from conduct undertaken in accordance with
10 this Act or a program authorized under this Act.

11 (b) Subsection (a) applies to all of the following actions
12 taken by a producer responsibility organization:

13 (1) the creation, implementation, or management of a
14 producer responsibility plan approved or conditionally
15 approved by the Agency under Sections 55, 60, and 65 and
16 the determination of the types or quantities of covered
17 products recycled or otherwise managed under the producer
18 responsibility plan;

19 (2) the determination of the cost and structure of an
20 approved plan; and

21 (3) the establishment, administration, collection, or
22 disbursement of a charge associated with funding the
23 implementation of this Act.

24 (c) Subsection (a) does not apply to an agreement that
25 does any of the following:

- 1 (1) fixes a price of or for covered products;
- 2 (2) fixes the output or production of covered
- 3 products; or
- 4 (3) restricts the geographic area where, or customers
- 5 to whom, covered products will be sold.

6 Section 140. Rulemaking. The Agency may adopt any rules

7 necessary to implement and administer this Act.

8 Section 900. The State Finance Act is amended by adding

9 Section 5.1038 as follows:

10 (30 ILCS 105/5.1038 new)

11 Sec. 5.1038. The Lubricant and Related Product Producer

12 Responsibility Fund.