



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB3115

Introduced 1/11/2022, by Sen. Dale Fowler - Sue Rezin

SYNOPSIS AS INTRODUCED:

New Act
30 ILCS 105/5.935 new

Creates the Photovoltaic Module Stewardship and Takeback Program Act. Requires the Environmental Protection Agency to develop guidance for photovoltaic module stewardship and takeback programs to guide manufacturers in preparing and implementing a self-directed program to ensure the convenient, safe, and environmentally sound takeback and recycling of photovoltaic modules and their components and materials. Provides that a stewardship organization may be designated to act as an agent on behalf of a manufacturer or manufacturers in operating and implementing the stewardship program. Requires each manufacturer to prepare and submit a stewardship plan with specified requirements to the Agency on or before the later of July 1, 2023 or within 30 days after its first sale of a photovoltaic module in or into the State. Provides that a manufacturer or its designated stewardship organization must provide to the Agency a report that documents implementation of the stewardship plan and assesses the achievement of performance goals. Provides that the Agency may collect a flat fee from participating manufacturers to recover costs associated with the stewardship plan guidance, review, and approval process. Creates the Photovoltaic Module Recycling Fund and makes a conforming change to the State Finance Act. Requires the Department of Commerce and Economic Opportunity to convene a Photovoltaic Module Recovery, Reuse, and Recycling Working Group to review and provide recommendations regarding potential methodologies for the management of end-of-life photovoltaic modules. Provides that the Act is repealed on January 1, 2026. Contains other provisions. Effective immediately.

LRB102 18977 CPF 27705 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 Photovoltaic Module Stewardship and Takeback Program Act.

6 Section 5. Findings. The General Assembly finds that a
7 convenient, safe, and environmentally sound system for the
8 recycling of photovoltaic modules, minimization of hazardous
9 waste, and recovery of commercially valuable materials must be
10 established. The General Assembly further finds that the
11 responsibility for this system must be shared among all
12 stakeholders, with manufacturers financing the takeback and
13 recycling system.

14 Section 10. Definitions. In this Act:

15 "Agency" means the Environmental Protection Agency.

16 "Consumer electronic device" means any device containing
17 an electronic circuit board that is intended for everyday use
18 by individuals, such as a watch or calculator.

19 "Distributor" means a person who markets and sells a
20 photovoltaic module to a retailer in Illinois.

21 "Fund" means the Photovoltaic Module Recycling Fund
22 created under Section 50.

1 "Installer" means a person who assembles, installs, and
2 maintains a photovoltaic module system.

3 "Manufacturer" means any person in business, or who is no
4 longer in business but has a successor in interest, who,
5 irrespective of the selling technique used, including by means
6 of distance or remote sale:

7 (1) manufactures or has manufactured a photovoltaic
8 module under its own brand name for use or sale in or into
9 this State;

10 (2) assembles or has assembled a photovoltaic module
11 that uses parts manufactured by others for use or sale in
12 or into this State under the assembler's brand name;

13 (3) resells or has resold in or into this State, under
14 its own brand name, a photovoltaic module produced by
15 another supplier, including a retail establishment that
16 sells a photovoltaic module under the supplier's own brand
17 name;

18 (4) manufactures or has manufactured a co-branded
19 photovoltaic module product for use or sale in or into
20 this State that carries the name of both the manufacturer
21 and a retailer;

22 (5) imports or has imported a photovoltaic module into
23 the United States that is used or sold in or into this
24 State; however, if the imported photovoltaic module is
25 manufactured by any person with a presence in the United
26 States meeting the criteria of paragraph (1), (2), (3),

1 (4), or (6), that person is the manufacturer;

2 (6) sells at retail a photovoltaic module acquired
3 from an importer that is the manufacturer and elects to
4 register as the manufacturer for that product; or

5 (7) elects to assume the responsibility of, and
6 registers in lieu of, a manufacturer meeting the criteria
7 of paragraph (1), (2), (3), (4), (5), or (6).

8 "Photovoltaic module" means the smallest, nondivisible,
9 environmentally protected assembly of photovoltaic cells or
10 other photovoltaic collector technology, and any ancillary
11 part, intended to generate electrical power under sunlight.

12 "Photovoltaic module" does not include a photovoltaic cell
13 that is part of a consumer electronic device for which it
14 provides electricity needed to make the consumer electronic
15 device function. "Photovoltaic module" includes, but is not
16 limited to, interconnections, terminals, and protective
17 devices such as diodes that are:

18 (1) installed on, connected to, or integral to
19 buildings;

20 (2) used as components of freestanding, off-grid power
21 generation systems, such as for powering water pumping
22 stations, electric vehicle charging stations, fencing,
23 street and signage lights, and other commercial or
24 agricultural purposes; or

25 (3) part of a system connected to a grid or utility
26 service.

1 "Predecessor" means an entity from which a manufacturer
2 purchases a photovoltaic module brand, its warranty
3 obligations, and its liabilities. "Predecessor" does not
4 include an entity from which a manufacturer purchases only
5 manufacturing equipment.

6 "Rare earth element" means lanthanum, cerium,
7 praseodymium, neodymium, promethium, samarium, europium,
8 gadolinium, terbium, dysprosium, holmium, erbium, thulium,
9 ytterbium, lutetium, yttrium, or scandium.

10 "Retailer" means a person who offers a photovoltaic module
11 for retail sale in the State through any means, including, but
12 not limited to, a remote offering such as a sales outlet,
13 catalog, or internet sale.

14 "Reuse" means any operation by which a photovoltaic module
15 or a component of a photovoltaic module changes ownership and
16 is used for the same purpose for which it was originally
17 purchased.

18 "Stewardship plan" means the plan developed by a
19 manufacturer or its designated stewardship organization for a
20 self-directed stewardship program under subsection (a) of
21 Section 25.

22 "Stewardship program" means the activities conducted by a
23 manufacturer or a stewardship organization to fulfill the
24 requirements of this Act and implement the activities
25 described in its stewardship plan.

26 "Working Group" means the Photovoltaic Module Recovery,

1 Reuse, and Recycling Working Group created under Section 65.

2 Section 15. Program guidance, review, and approval. The
3 Agency must develop guidance for photovoltaic module
4 stewardship and takeback programs to guide manufacturers in
5 preparing and implementing a self-directed program to ensure
6 the convenient, safe, and environmentally sound takeback and
7 recycling of photovoltaic modules and their components and
8 materials. On or before January 1, 2022, the Agency must
9 establish a process to develop guidance for photovoltaic
10 module stewardship plans by working with manufacturers,
11 stewardship organizations, and other stakeholders on the
12 content, review, and approval of stewardship plans. The
13 Agency's process must be fully implemented and stewardship
14 plan guidance completed on or before July 1, 2022.

15 Section 20. Stewardship organization as an agent of a
16 manufacturer. A stewardship organization may be designated to
17 act as an agent on behalf of a manufacturer or manufacturers in
18 operating and implementing the stewardship program required
19 under subsection (a) of Section 25. Any stewardship
20 organization that has obtained such a designation must provide
21 to the Agency a list of the manufacturers and brand names that
22 the stewardship organization represents within 60 days after
23 its designation by a manufacturer as its agent and within 60
24 days after the removal of such a designation.

1 Section 25. Stewardship plan; requirements.

2 (a) A manufacturer must prepare and submit a stewardship
3 plan to the Agency on or before the later of July 1, 2023 or
4 within 30 days after its first sale of a photovoltaic module in
5 or into the State.

6 (b) A stewardship plan must, at minimum:

7 (1) describe how the manufacturer will finance the
8 takeback and recycling system and include an adequate
9 funding mechanism to finance the costs of collection,
10 management, and recycling of photovoltaic modules and
11 residuals sold in or into the State by the manufacturer,
12 with a mechanism ensuring that photovoltaic modules can be
13 delivered to takeback locations without cost to the last
14 owner or holder;

15 (2) require the manufacturer's stewardship program to
16 accept all of the manufacturer's photovoltaic modules sold
17 in or into the State on and after July 1, 2023;

18 (3) describe how the stewardship program will minimize
19 the release of hazardous substances into the environment
20 and maximize the recovery of other components, including
21 rare earth elements and commercially valuable materials;

22 (4) provide for the takeback of photovoltaic modules
23 at locations that are within the region of the State in
24 which the manufacturer's photovoltaic modules are used and
25 are as convenient as reasonably practicable, and if no

1 such location within the region of the State exists,
2 include an explanation for the lack of the location;

3 (5) identify how relevant stakeholders, including
4 consumers, installers, building demolition firms, and
5 recycling and treatment facilities, will receive
6 information required in order for them to properly
7 dismantle, transport, and treat end-of-life photovoltaic
8 modules in a manner consistent with the objectives
9 described in paragraph (3); and

10 (6) establish performance goals, including a goal for
11 the rate of combined reuse and recycling of collected
12 photovoltaic modules as a percentage of the total weight
13 of photovoltaic modules collected, which rate must be no
14 less than 85%.

15 (c) A manufacturer must implement the stewardship plan
16 submitted under subsection (a).

17 (d) A manufacturer may periodically amend its stewardship
18 plan. The Agency must approve the amendment if it meets the
19 requirements for plan approval outlined in the Agency's
20 guidance created under Section 15. When submitting a proposed
21 amendment under this subsection, a manufacturer must include
22 an explanation of why the amendment is necessary.

23 Section 30. Plan approval. The Agency must approve a
24 stewardship plan if it determines that the stewardship plan
25 addresses each element outlined in the Agency's guidance

1 created under Section 15.

2 Section 35. Annual report.

3 (a) On or before April 1, 2024, and on or before April 1 of
4 each subsequent year, a manufacturer or its designated
5 stewardship organization must provide to the Agency a report
6 for the previous calendar year that documents the
7 implementation of the stewardship plan submitted under
8 subsection (a) of Section 25 and assesses the achievement of
9 the performance goals established under paragraph (6) of
10 subsection (b) of Section 25.

11 (b) The report submitted under subsection (a) may include
12 any recommendation to the Agency or the General Assembly
13 regarding modifications to the stewardship program that would
14 enhance the effectiveness of the stewardship program,
15 including management of stewardship program costs and
16 mitigation of environmental impacts of photovoltaic modules.

17 (c) A manufacturer or stewardship organization must post
18 the report submitted under subsection (a) on a publicly
19 accessible website.

20 Section 40. Enforcement.

21 (a) On and after July 1, 2024, no manufacturer,
22 distributor, retailer, or installer may sell or offer for sale
23 a photovoltaic module in or into the State unless the
24 manufacturer of the photovoltaic module has submitted to the

1 Agency a stewardship plan and received plan approval from the
2 Agency.

3 (b) The Agency must send a written warning to a
4 manufacturer that is not participating in a stewardship plan.
5 The written warning must inform the manufacturer that it must
6 submit a stewardship plan or participate in a stewardship plan
7 within 30 days after receiving the notice. The Agency may
8 assess a civil penalty of up to \$10,000 upon a manufacturer for
9 each sale after the initial written warning that occurs in or
10 into the State of a photovoltaic module for which a
11 stewardship plan has not been submitted by the manufacturer
12 and approved by the Agency. A manufacturer may appeal a
13 penalty issued under this Section to the circuit court of the
14 county in which the alleged violation occurred within 180 days
15 after receipt of the written warning.

16 (c) The Agency must send a written warning to a
17 distributor, retailer, or installer that sells or installs a
18 photovoltaic module made by a manufacturer that is not
19 participating in a stewardship plan. The written warning must
20 inform the distributor, retailer, or installer that the
21 distributor, retailer, or installer may no longer sell or
22 install a photovoltaic module if a stewardship plan for that
23 brand has not been submitted by the manufacturer and approved
24 by the Agency within 30 days after receipt of the written
25 warning.

1 Section 45. Fee. The Agency may collect a flat fee from
2 participating manufacturers to recover costs associated with
3 the stewardship plan guidance, review, and approval process
4 described in Section 15. Other administrative costs incurred
5 by the Agency for stewardship program implementation
6 activities, including stewardship plan review and approval,
7 enforcement, and any rulemaking, may be recovered by charging
8 every manufacturer an annual fee calculated by dividing the
9 Agency's administrative costs by the manufacturer's pro rata
10 share of the Illinois State photovoltaic module sales in the
11 most recent preceding calendar year, based on the best
12 available information. The sole purpose of assessing the fee
13 authorized under this Section is to predictably and adequately
14 fund the Agency's costs of administering the photovoltaic
15 module recycling program.

16 Section 50. Photovoltaic Module Recycling Fund. The
17 Photovoltaic Module Recycling Fund is created as a special
18 fund in the State treasury. All fees collected from
19 manufacturers under Section 45 must be deposited in the Fund.
20 Expenditures from the Fund may be used only for administering
21 this Act. Only the director of the Agency or the director's
22 designee may authorize expenditures from the Fund. The Fund is
23 subject to the applicable allotment procedures provided by
24 law, but an appropriation is not required for expenditures.
25 Moneys in the Fund may not be diverted for any purpose or

1 activity other than those specified in this Act.

2 Section 55. Rulemaking. The Agency may adopt rules as
3 necessary for the purpose of implementing, administering, and
4 enforcing this Act.

5 Section 60. National program. In lieu of preparing a
6 stewardship plan as provided under Section 25, a manufacturer
7 may participate in a national program for the convenient,
8 safe, and environmentally sound takeback and recycling of
9 photovoltaic modules and their components and materials if the
10 national program is substantially equivalent to the intent of
11 the State stewardship program. The Agency may determine
12 substantial equivalence if it determines that the national
13 program (1) adequately addresses and fulfills each element of
14 a stewardship plan outlined in subsection (b) of Section 25
15 and (2) includes an enforcement mechanism reasonably
16 calculated to ensure a manufacturer's compliance with the
17 national program. Upon issuing a determination of substantial
18 equivalence, the Agency must notify affected stakeholders,
19 including the manufacturer. If the national program is
20 discontinued or the Agency determines that the national
21 program is no longer substantially equivalent to the State
22 stewardship program, the Agency must notify the manufacturer
23 and the manufacturer must provide a stewardship plan as
24 described in subsection (b) of Section 25 to the Agency for

1 approval within 30 days after notification.

2 Section 65. Photovoltaic Module Recovery, Reuse, and
3 Recycling Working Group.

4 (a) Subject to appropriation for this specific purpose,
5 the Department of Commerce and Economic Opportunity shall
6 convene a Photovoltaic Module Recovery, Reuse, and Recycling
7 Working Group to review and provide recommendations regarding
8 potential methodologies for the management of end-of-life
9 photovoltaic modules, including modules from utility-scale
10 solar projects.

11 (b) The members of the Working Group shall be appointed by
12 the Director of Commerce and Economic Opportunity and shall
13 include, but are not limited to, members representing the
14 following:

15 (1) A manufacturer of photovoltaic modules located in
16 the State.

17 (2) A manufacturer of photovoltaic modules located
18 outside the State.

19 (3) A national solar industry group.

20 (4) Solar installers in the State.

21 (5) A utility-scale solar project.

22 (6) A nonprofit environmental organization with
23 expertise in waste minimization.

24 (7) A city solid waste program.

25 (8) A county solid waste program.

1 (9) An organization with expertise in photovoltaic
2 module recycling.

3 (10) A community-based environmental justice group.

4 (11) The Agency.

5 (c) Participation in the Working Group is strictly
6 voluntary. Members of the Working Group shall serve without
7 compensation or reimbursement. The members shall elect from
8 their number a chair and such other officers as they may deem
9 necessary. The meetings of the Working Group shall be held at
10 the call of the chair.

11 (d) The Department of Commerce and Economic Opportunity
12 shall submit a final report of the Working Group's findings
13 and recommendations to the General Assembly and the Governor
14 on or before January 1, 2025.

15 Section 70. Repeal. This Act is repealed on January 1,
16 2026.

17 Section 90. The State Finance Act is amended by adding
18 Section 5.935 as follows:

19 (30 ILCS 105/5.935 new)

20 Sec. 5.935. The Photovoltaic Module Recycling Fund. This
21 Section is repealed on January 1, 2026.

22 Section 99. Effective date. This Act takes effect upon
23 becoming law.