A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Sustainable Solid Waste Management Amendment Act of 2014 to require the Mayor to prepare plans for comprehensive organics site management and for recycling infrastructure in the public space, create training and outreach guides on source separation, and establish a uniform labeling scheme, to require large commercial food waste generators to source separate commercial food waste, to require waste collectors to address contamination in recyclables and compostables, to require certain private collection properties to separate glass, to require private collection properties to develop a waste management plan, to require the Mayor to impose a surcharge on recycling disposed of at District transfer stations when recycling loads exceed a contamination threshold, to establish a reuse and donation program to reduce needless waste and increase diversion of reusable materials from landfills and incineration, to establish an extended producer responsibility program for batteries, and to establish an extended producer responsibility program for home-generated sharps waste; to amend the Sustainable DC Omnibus Amendment Act of 2014 to require food service entities providing compostable disposable food service ware to source-separate and process compostable materials, to require that food service entities only provide accessory disposable food service ware upon request by the customer or at a self-serve station, and to require that food service entities, when selling or providing food for consumption on premises, only use reusable food service ware; and to repeal section 704.2 of title 21 of the District of Columbia Municipal Regulations.
BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Zero Waste Omnibus Amendment Act of 2019”.

Sec. 2. Title I of the Sustainable Solid Waste Management Amendment Act of 2014, effective February 26, 2015 (D.C. Law 20-154; D.C. Official Code § 8-1031.01 et seq.), is amended as follows:

(a) Section 101 (D.C. Official Code § 8-1031.01) is amended as follows:

(1) A new paragraph (1A) is added to read as follows:

“(1A) “Commercial food waste” means food waste produced by the production and preparation of human or animal food at a commercial establishment, excluding food waste disposed of by customers of the establishment.”.

(2) A new paragraph (8B) is added to read as follows:

“(8B) “Food service establishment” means full-service restaurants, limited-service restaurants, fast food restaurants, business, institutional, or government agency cafeterias, including those operated by or on behalf of District departments and agencies, and other entities selling or providing food within the District for consumption on or off the premises. The term “food service establishment” shall not include retail food stores, convenience stores, or pharmacies.”.

(3) The existing text of paragraph (8A) is designated as paragraph (8B).

(4) Paragraph (8A) is amended to read as follows:

“(8A) “Food waste” means material produced from human or animal food production, preparation, and consumption activities, including fruits, vegetables, grains, and fish and animal products and byproducts.”.

(5) New paragraphs (10A), (10B), (10C), and (10D) are added to read as follows:
“(10A) "In vessel composting" means a process in which organic waste is enclosed in a drum, silo, bin, tunnel, reactor, or other container for the purpose of producing compost, maintained under controlled conditions of temperature and moisture and where airborne emissions are controlled.

“(10B) "Large commercial food waste generator" means:

“(A) A retail food store:

“(i) With at least 50 employees; or

“(ii) That is part of a chain that

“(I) Operates the retail food stores under common ownership or control and receives waste collection from the same private collector;

“(II) Consists of 3 or more retail food stores; and

“(III) Has at least 50 employees.

“(B) A food service establishment with at least 75 employees;

“(C) A college or university with at least 200 employees;

“(D) A school with at least 100 employees;

“(E) A hospital or nursing home, as defined in section 2 of the Health-Care and Community Residence Facility, Hospice, and Home Care Licensure Act of 1983, effective February 24, 1984 (D.C. Law 5-48; D.C. Official Code § 44-501) with at least 100 employees;

“(F) Arenas or stadiums having a seating capacity of at least fifteen thousand persons;
“(G) Any food service establishments located within a hotel providing
food to one or more hotels totaling at least 100 sleeping rooms; and

“(H) Any other facilities added by DPW by rule, based on an evaluation of
the available processing capacity of all organic waste processing facilities within 25 miles of the
District and the cost of processing organic waste.

“(10C) “Organic waste” means compostable solid waste, such as food waste and
yard waste.

“(10D) “Organic waste processing facility” means a facility that processes organic
waste through composting, aerobic digestion, or anaerobic digestion.”.

(6) A new paragraph (12A) is added to read as follows:

“(12A) “Public litter container” means a trash receptacle installed by a public
agency or private entity, including a business improvement district established pursuant to the
Business Improvement Districts Act of 1996, effective May 29, 1996 (D.C. Law 11-134, 43
DCR 1684; D.C. Official Code § 2-1215.01 et seq.), at a public sidewalk, park, or other public
space.”.

(7) A new paragraph (14A) is added to read as follows:

“(14A) “Retail food store” means any establishment or section of an
establishment where food and food products offered to the consumer are intended for off-
premises consumption. The term “retail food store” shall not include convenience stores,
pharmacies, farmers markets, and food service establishments.”.

(b) Section 103 (D.C. Official Code § 8-1031.03) is amended as follows:

(1) Subsection (c) is amended as follows:

(A) The existing text is designated as paragraph (1).
(B) A new paragraph (2) is added to read as follows:

"(2) By January 1, 2021, the Mayor shall submit to the Council a comprehensive Organics Site Management Plan that describes how the District will manage residential and commercial organic waste, including:

"(A) Determining the locations of and relationships between an in-District composting site, a pre-processing site for co-digestion, and co-digestion at Blue Plains;

"(B) Permitting and zoning requirements for a pre-processing facility; and

"(C) Environmental considerations, including air pollution controls, greenhouse gas emissions, stormwater runoff and environmental emissions."

(2) Subsection (d) is amended to read as follows:

"(d) The Mayor shall establish a uniform color, design, and labeling scheme for public collection property waste containers in the District and for waste containers at all District facilities, agencies, and departments."

(3) New subsections (e) and (f) are added to read as follows:

"(e) By January 1, 2021, the Mayor shall prepare a plan for how to provide recycling infrastructure in the public space. The plan shall make recycling available as appropriate with public litter containers, and require businesses providing public litter containers to provide recycling containers, as appropriate.

"(f) The Mayor shall create training and outreach guides on proper source separation for janitorial staff at District-owned properties, multifamily properties, and commercial properties. The training and outreach guides shall be updated on an annual basis."

(c) A new section 103a is added to read as follows:
"Sec. 103a. Mandatory back-of-house composting for large commercial food waste generators.

"(a) Except as provided in subsection (b) of this section, by January 1, 2021, a large commercial food waste generator shall:

"(1) Source-separate all commercial food waste generated at its premises and either:

"(A) Arrange with a private collector for the separate collection of such food waste to an organic waste processing facility;

"(B) Transport its own waste to an organic waste processing facility; or

"(C) Provide for on-site organic waste processing; provided, that any on-site composting must be in vessel, and that the commercial food waste generator arranges for the collection or transport of the remainder of such organic waste in accordance with subparagraph (A) or (B) of this paragraph;

"(2) Provide separate bins for the disposal of commercial food waste in any employee work area where such waste is generated by employees;

"(3) Ensure proper storage for commercial food waste onsite that will ensure that it is maintained separately from all other materials generated at the premises, is not commingled with recyclable material or trash, and does not create a public nuisance;

"(4) Provide information and training to employees concerning the proper methods to separate and store food waste, as well as posted instructions on the proper separation of food waste where such instructions will be visible to persons who are disposing of food waste; and
“(5) Post a sign that states clearly and legibly the trade or business name, address, and telephone number of, and the day and time of pickup by, the private collector that collects the food waste, that such establishment transports its own food waste, or that such establishment provides for on-site processing for all food waste it generates on its premises.

“(b)(1) The requirement in subsection (a) of this section shall only apply to entities within 25 miles of an organic waste processing facility with capacity to accept all of such generator’s commercial food waste.

“(2) When a large commercial food waste generator arranges for contractual services, the contract or work agreement between the large commercial food waste generator and the service provider shall require the organic waste generated by those services to be managed in compliance with this section.

“(c) A large commercial food waste generator that provides for on-site organic waste processing pursuant to subsection (a)(1)(C) of this section for some or all of the food waste it generates shall:

“(1) To the extent practicable, weigh and measure by volume the amount of food waste disposed of by any such method on-site, and retain records of such weights and measurements for a period of 3 years; and

“(2) Provide equipment on site that is properly sized to handle and process food waste generated at the premises in a safe and sanitary manner.

“(d) Collectors of source-separated food waste shall deliver food waste directly to a facility for the purposes of composting, aerobic or anaerobic digestion, or any other method of processing organic waste that DPW approves by rule.
"(e)(1) All businesses or District-owned buildings shall separate their excess edible food for donation for human consumption to the maximum extent practicable.

"(2) Large commercial food waste generators shall submit an annual report to the Mayor summarizing the amount of edible food donated, the amount of food waste recycled, the organic waste processing facility and/or collectors used, and any other information as required by the Mayor.

"(f) The Mayor shall not prohibit food service establishments from composting or source separating organic waste."

(d) Section 104 (D.C. Official Code § 8-1031.04) is amended as follows:

(1) Subsection (a)(3) is amended by striking the phrase "of any janitorial employed at the property." and inserting the phrase "for all staff employed at the property;" in its place.

(2) A new subsection (a-1) is added to read as follows:

"(a-1) All bars and restaurants selling alcohol for on-premises consumption shall separate, store, and provide for collection for recycling of all recyclable glass beverage containers of all beverages sold on the premises, and arrange for recycling services that haul source-separated glass to a glass recycling facility."

(3) Subsection (b) is amended to read as follows:

"(b)(1) The Mayor shall require a private collection property owner to submit a source separation plan, updated on an annual basis, outlining the steps the property owner will take to implement the requirements of this act. At a minimum, the plan shall include:

(A) Designation of an agent responsible for carrying out the plan;
“(B) A description of the private collection property, including the name, address, and telephone number of the contact person responsible for the on-site recycling program;

“(C) A description of the private waste collection services, including the trade or business name, address, and telephone number of, and the day and time of pickup by, the collectors that collect the private collection property’s solid waste, as well as the sites where the materials are delivered;

“(D) A list of materials to be recycled;

“(E) A description of the property owner’s efforts to educate tenants, residents, employees, and/or customers about its source separation program; and

“(F) A description of how the private collection property will recycle or reduce the amount of solid waste going to disposal facilities.

“(2) The Mayor shall provide electronic forms, as appropriate, to assist private collection properties with meeting the requirements of this subsection.”.

(e) Section 105 (D.C. Official Code § 8-1031.05) is amended as follows:

(1) Subsection (a) is amended by striking the phrase “intended,” and inserting the phrase “intended, in a manner that allows users to easily identify which containers to use for recyclables, compostables, or trash,” in its place.

(2) A new subsection (a-1) is added to read as follows:

“(a-1) (1) If a collector finds materials that are not the correct type as designated for that container, such as trash in a compostables or recyclables container, the collector shall leave a tag on the container identifying the incorrect materials.
“(2) If the collector continues to find incorrect materials in a recycling or compostables collection container exceeding a contamination threshold set by the Mayor, after the collector has already left 2 or more tags for that customer and that type of container, the collector may refuse to empty the container; provided, that it may not refuse on this basis to empty containers from multifamily or commercial properties with multiple tenants and joint account collection services. If the container is not emptied, the collector shall send a written notice to the subscriber identifying the incorrect materials and describing what action must be taken for the materials to be collected.

“(3) The collector shall, upon request, provide to the Mayor a list of the names and addresses of private collection properties that have received tags, notices, or whose containers have not been emptied due to exceeding a contamination threshold.”.

(3) Subsection (b) is amended as follows:

(A) A new paragraph (2A) is added to read as follows:

“(2A) The contamination rate of collected recycling and compost.”.

(B) Paragraph (3) is amended to read as follows:

“(3) The names and locations of each recycling, composting, landfill, incineration, or any other waste processing or disposal facility to which the tonnage reported in paragraph (1) of this subsection was delivered, as well as the tonnage of solid waste delivered to each facility.”.

(4) A new subsection (g) is added to read as follows:

“(g) Collectors who deliver for disposal solid waste at a District transfer station shall, upon the request of DPW, provide an accurate list of all customer locations from which waste was collected for the load carried at the time of the request.”.

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(f) Subsection 111(a) (D.C. Official Code § 8-1031.11(a)) is amended by adding a new paragraph (3) to read as follows:

“(3) A surcharge on the disposal of recycling at a solid waste disposal facility owned by the District where the recycling load exceeds a contamination threshold to be determined by the Mayor. Revenue from this surcharge shall be deposited into the Solid Waste Disposal Cost Recovery Fund established by section 6013 of the Fiscal Year 2008 Budget Support Act of 2007, effective September 18, 2007 (D.C. Law 17-20; D.C. Official Code § 1-325.91).”.

(g) Subsection 112(c) (D.C. Official Code § 8-1031.12(c)) is amended to read as follows:

“(c) Money in the Fund shall be used to develop and sustain new and additional methods of solid waste diversion in the District, including grants to reduce production of waste in the District, including fixit clinics, exchanges, and donation facilities.”.

(h) A new section 112c is added to read as follows:

“Sec. 112c. Donation and Reuse Program.

“(a) There is established a Donation and Reuse Program (“Program”) to be administered by DOEE, to reduce needless waste and increase diversion of reusable material from landfills and incineration through donation and reuse.

“(b) The Program shall:

“(1) Develop public-facing technology platforms for direct donation coordination and to facilitate exchange of gently used and surplus materials;

“(2) Increase public awareness and access to opportunities for reuse and donation;

“(3) Support and expand the District’s reuse infrastructure, through site donation drop-off at transfer stations, fixit clinics, and non-governmental donation facilities; and
“(4) Prepare for and respond to emergency situations that result in surges of unsolicited donations.

“(c) DOEE may issue grants to community organizations and businesses to further the objectives of this section.”.

(i) A new Subtitle C is added to read as follows:

“SUBTITLE C. EXTENDED PRODUCER RESPONSIBILITY FOR BATTERIES.

“Sec. 127. Definitions.

“For the purposes of this subtitle, the term:

“(1) “Battery” means primary batteries and rechargeable batteries. It does not mean a battery contained within a medical device, as specified in 21 U.S.C. § 360c; provided, that the device is not designed and marketed for sale or resale principally to consumers for personal use.

“(2) “Battery-containing product” means a product containing a rechargeable or primary battery.

“(3) “Collection rate” means a percentage, by weight, that each producer with an individual plan or battery stewardship organization collects by an established date and that is calculated by dividing the total weight of batteries that were estimated to have been sold in the District by participating producers during the previous 3 calendar years.

“(4) “DOEE” means the District Department of Energy and Environment.

“(5) “Performance goal” means a metric proposed in a battery stewardship plan to measure, on an annual basis, the performance of that plan, taking into consideration technical feasibility and economic practicality, in achieving continuous, meaningful progress to improve the rate of battery recycling in the District. The term “performance goal” shall include target
collection rates, target recycling efficiencies by battery recycling process, and goals for convenience and accessibility.

“(6) “Primary battery” means a nonrechargeable battery weighing two kilograms or less, including alkaline, carbon-zinc, and lithium metal batteries.

“(7) “Producer” means a person who owns or licenses a trademark or brand under which a battery is sold, offered for sale or distributed, or who imports the battery into the country for sale or distribution in or into the District.

“(8) “Rechargeable battery” means one more voltaic or galvanic cells, electrically connected to produce electric energy and designed to be recharged and weighing less than 11 pounds or a battery pack designed to be recharged that weighs less than 11 pounds and that is designed to provide less than 40 volts direct current. The term “rechargeable battery” shall not include a battery that contains electrolyte as a free liquid, or a battery or battery pack that employs lead-acid technology, unless that battery or battery pack is sealed.

“(9) “Recycling” means the series of activities, including separation, collection, and processing, through which materials are recovered or otherwise diverted from the solid waste stream for use as raw materials or in the manufacture of products other than fuel.

“(10) “Retailer” means any person who sells batteries in the District or offers batteries in the District to a consumer.

“Sec. 128. Sale of batteries.

“(a) No retailer shall sell or offer for sale a battery unless the producer of the battery:

“(1) Has an approved battery stewardship plan in accordance with section 130 of this subtitle;
“(2) Is a member of a battery stewardship organization pursuant to section 129 of this subtitle with an approved battery stewardship plan; or

“(3) Is exempt from the requirement to have such a plan or participate in such an organization, as determined by a review of the producers and brands listed on the Internet website of approved plans.

“(b) A retailer shall not be responsible for an unlawful sale of a battery under subsection (a) of this section if:

“(1) The retailer purchased the battery prior to the effective date of this subtitle and sells the battery within six months of the effective date;

“(2) The producer’s battery stewardship plan expired, and the retailer took possession of the in-store inventory of batteries before the expiration of the stewardship plan.

“(c) Retailers shall:

“(1) Ensure that the brands they sell are compliant by reviewing the producers and brands listed on the website of approved plans;

“(2) Provide educational materials to consumers about battery collection options supplied by the stewardship organization or producer; and

“(3) If the retailer serves as collection site, visibly promote drop off at their location.

“Sec. 129. Battery stewardship organizations.

“(a) A producer of covered batteries may meet the requirements of this subtitle by participating in a battery stewardship organization that undertakes the producer’s responsibilities under this subtitle.

“(b) A battery stewardship organization shall:
“(1) Develop and submit a stewardship plan that meets the requirements of section 130;

“(2) Maintain a public, regularly updated website that lists all producers and producers’ brands covered by the battery stewardship organization’s approved collection plan;

“(3) Ensure that all producers covered by the approved collection plan are using compliant batteries;

“(4) Provide retailers, government agencies, nonprofit organizations, and all collection sites with education materials describing collection opportunities for batteries; and

“(5) Cover all costs for battery collection, transportation, processing, education, administration, recycling, and end-of-life handling in accordance with environmentally sound management practices.

“(c) Beginning January 1, 2021, and annually thereafter, a battery stewardship organization shall file a registration form with DOEE. The registration form shall require the following information:

“(1) A list of the producers participating in the primary battery stewardship organization;

“(2) The name, address, and contact information of a person responsible for ensuring a producer’s compliance with this subtitle;

“(3) A description of how the battery stewardship organization proposes to meet the requirements of subsection (b) of this section, including any reasonable requirements for participation in the battery stewardship organization; and

“(4) The name, address, and contact information of a person for a nonmember producer to contact on how to participate in the battery stewardship organization.
"Sec. 130. Battery stewardship plan.

(a) On or before January 1, 2021, each producer selling, offering for sale, distributing, or offering for promotional purposes a battery in the District shall individually or as part of a battery stewardship organization submit a battery stewardship plan to DOEE for review.

(b) Each battery stewardship plan shall include, at a minimum:

(1) A list of producers and brands, including:

(A) All participating producers and contact information for each of the participating producers; and

(B) The brands of batteries covered by the plan;

(2) A description of the financing method used to implement the plan, taking into account that the plan must provide for producer- or organization-financed end-of-life management for discarded batteries collected;

(3) Performance goals for each of the first three years of the program, including the estimated total weight of batteries that will be sold or offered for sale in the District by the producer or the producers participating in the battery stewardship plan;

(4) A description of how the producer or battery stewardship organization will provide for the convenient collection of batteries from consumers as required by subsection (c) of this section;

(5) A description of how the program will ensure that the components of the discarded batteries are recycled to the maximum extent economically and technically feasible; and;

(6) A list of all key participants in the battery collection program, including:
“(A) The names of the collection facilities accepting batteries under the
plan, including the address and contact information for each facility;
“(B) The name and contact information of a transporter or contractor
collecting batteries from collection facilities; and
“(C) The name, address, and contact information of the recycling facilities
that process the collected batteries; and
“(7) A description of the education and outreach program that will be used to
inform consumers about the program, which must, at a minimum, notify the public that there is a
free collection program for all batteries as well as the location of the collection points and how to
access the collection program.
“(c) All plans shall provide for collection of all batteries on a free, continuous,
convenient, and accessible basis, which at a minimum requires that:
“(1) Battery collection be provided at no cost to consumers, retailers, or the
District;
“(2) All retailers who meet the requirements specified in the plan, and all solid
waste management facilities, may opt to be a collection facility;
“(3) The plan must provide for a minimum of one collection site per 10,000
people, with a reasonable geographic spread of collection sites across all 8 wards, and an
explanation for the geographic spread;
“(4) Collection facilities must provide for the acceptance of up to 100 batteries
per visit, and must accept all batteries regardless of type or brand.
“(d) An approved battery stewardship plan shall have a term not to exceed 5 years; provided, that the battery producer battery stewardship organization remains in compliance with the requirements of this subtitle and the terms of the approved battery stewardship plan.

“(e) Each producer or stewardship organization shall be responsible for the collection and recycling of batteries equivalent to their national market share of sales of batteries.

“(f) DOEE may require any producer or stewardship organization to submit a revised plan if the approved plan is not meeting performance goals.

“Sec. 131. Annual reporting.

“(a) On or before January 1, 2021, and annually thereafter, a producer or battery stewardship organization shall submit a report to DOEE that includes the following:

“(1) The weight of the batteries collected by the producer or the battery stewardship program in the prior calendar year;

“(2) The weight and type of material recycled from batteries collected under the program, in total, and by battery recycling process;

“(3) The estimated total sales, by weight, of batteries and batteries contained in or with battery-containing products sold in the District by or on behalf of participating producers, for the each of the previous 3 calendar years;

“(4) The collection rate achieved in the prior calendar year under the battery stewardship plan and how this rate was calculated, including a report of the estimate total sales data by weight for batteries sold in the District for the previous 3 calendar years;

“(5) The locations and contact information, including website links, for all collection sites, as well as a map indicating the location of all collection sites in the District;
“(6) A description of the educational materials that support the program, including examples, as well as an evaluation of the success of the education and outreach effort and how it can be improved;

“(7) A description of the manner in which the collected batteries were sorted, consolidated, managed, and processed, including the manner in which the collected batteries were recycled and a discussion of best available technologies and recycling efficiency rates;

“(8) An explanation of why collection targets were not met, if applicable;

“(9) The costs of implementation of the battery stewardship plan, including the costs of collection, recycling, education, and outreach; and

“(10) An evaluation of the effectiveness of methods and processes used to achieve the performance goals of the program.

“(b) No later than the second annual report, and at least every 2 years thereafter, the producer or battery stewardship organization shall submit updated performance goals to DOEE for approval, based on the implementation of the program up until that point.

“(c) In the event a producer or battery stewardship organization does not meet the annual collection rate performance goal, the producer or battery stewardship organization shall be required to conduct more outreach, provide additional education materials, or improve collection accessibility, as determined by DOEE.

“(d) After 5 years of implementation of an approved battery stewardship plan, a battery producer or battery stewardship organization shall hire an independent third party to conduct a one-time audit of the battery stewardship plan and plan operation. The auditor shall examine the effectiveness of the battery stewardship plan in collecting and recycling batteries, and compare the cost-effectiveness of the plan to that of collection pans or programs for batteries in other
jurisdictions. The independent auditor shall submit the results of the audit to DOEE as part of the
annual report required under subsection (a) of this section.

"Sec. 132. Department responsibilities.

(a)(1)(A) Within 90 days after receipt of a proposed battery stewardship plan, not
including the time for public comment required under paragraph (3) of this subsection, DOEE
shall determine whether the plan complies with the requirements of section 130. DOEE shall
notify the applicant of the plan approval or rejection in writing.

(B) If DOEE rejects a proposed plan, DOEE shall include the reasons for
rejecting the plan. An applicant whose plan is rejected by DOEE shall submit a revised plan
within 45 days of receiving notice of rejection.

(2) Any changes to a proposed battery stewardship plan shall be approved by
DOEE in writing. DOE, in its discretion or at the request of a producer, may require a producer
or a battery stewardship organization to amend an approved plan.

(3) DOEE shall post all proposed battery stewardship plans, including any
proposed amendments, its website for 30 days from the date the application is deemed complete,
and shall provide for public review and comment.

(b) DOEE shall accept, review, and approve or deny battery stewardship organization
registrations submitted under section 129(c).

(c) DOEE shall maintain a website that includes:

(1) A copy of all approved battery stewardship plans;

(2) The names of producers with approved plans or participating in approved plans;
“(3) A list of all approved brands covered by a battery stewardship plan filed with
the Department; and

“(4) Links to producer and battery stewardship organization websites that list
compliant brands for retailers to determine their compliance.

“(d) Every 5 years, DOEE shall report on the status of the battery recycling program and
provide this report to the Council and on its website. The report shall include:

“(1) The amount, by weight, of batteries collected under approved battery
stewardship plans;

“(2) The percentage of collected batteries not covered by or attributable to a
battery producer implementing an approved battery stewardship plan or participating in an
approved battery stewardship organization; and

“(3) Recommendations for any amendments to this subtitle.

“(e) DOEE shall assist in educational and outreach efforts to inform the public about the
battery stewardship program.

“(f) DOEE may charge an administrative fee to producers to cover Department’s
oversight costs, including planning, plan review, annual oversight, enforcement, and other
directly related tasks.

“Sec. 133. Antitrust; conduct authorized.

“(a) A producer, group of producers, or battery stewardship organization implementing or
participating in an approved battery stewardship plan under this subtitle for the collection,
transport, processing, and end-of-life management of primary batteries shall be immune from
liability for the conduct under District laws relating to antitrust, restraint of trade, unfair trade
practices, to the extent that the conduct is reasonably necessary to comply with the provisions of this law.

(b) Subsection (a) of this section shall not apply to an agreement among producers, groups of producers, retailers, wholesalers, or battery stewardship organizations affecting the price of batteries or any agreement restricting the geographic area in which, or customers to whom, batteries shall be sold.

"Sec. 134. Disposal ban.

(a) Beginning January 1, 2022, no person in the District shall knowingly dispose of batteries in the District except through recycling programs or other methods approved by the Mayor.

(b) Beginning January 1, 2021, no manufacturer shall dispose of batteries in the District except through recycling programs or other methods approved by the Mayor."

(i) A new subtitle D is added to read as follows:

"SUBTITLE D. EXTENDED PRODUCER RESPONSIBILITY FOR SHARPS WASTE.

"Sec. 135. Definitions

"For the purposes of this subtitle, the term:

“(1) “Authorized collection site” means a location where an authorized collector operates at least one secure collection receptacle for collecting covered products.

“(2) “Authorized collector” means a person or entity that has entered into an agreement with a program or operator to collect covered products.

“(3) “Covered entity” means the manufacturer or importer of covered products that are sold in or into the District.

“(4) “Covered product” means home-generated sharps waste."
“(5) "DOEE" means the District Department of Energy and Environment.

“(6) "End user" means a District resident or other nonbusiness entity and includes

a person who has obtained, and who possesses, a covered product, for his or her own use or for

the use of a member of his or her household. The term "end user" does not include a medical

waste generator as defined in this chapter.

“(7) "Home-generated sharps waste" means sharps derived from a household,

including a multifamily residence or household.

“(8) "Medical waste generator" means any person whose business act or process

produces medical waste, including:

“(A) Medical and dental offices, clinics, hospitals, surgery centers,

laboratories, research laboratories, chronic dialysis clinics, and education and research facilities;

“(B) Veterinary offices, veterinary clinics, and veterinary hospitals;

“(C) Pet shops; and

“(D) Trauma scene waste management practitioners.

“(9) "Program operator" means a covered entity, or stewardship organization on

behalf of a group of covered entities, that is responsible for operating a stewardship program in

accordance with this subtitle.

“(10) "Sharps" means hypodermic needles, pen needles, intravenous needles,
lancets, and other devices that are used to penetrate the skin for the delivery of medications.

“(11) "Stewardship organization" means an organization established by a group of

covered entities in accordance with this subtitle to develop, implement, and administer a

stewardship program under this subtitle.
“(12) “Stewardship plan” means the plan that is developed by a covered entity or stewardship organization under this subtitle for collecting and properly managing covered products.

“(13) “Stewardship program” means a stewardship program for the collection, transportation, and disposal of covered products.


“(a)(1) No covered entity shall sell or offer for sale a covered product in the District unless the covered entity is subject to an approved stewardship plan submitted by the covered entity or by a stewardship organization that includes the covered entity, that has been approved by DOEE under section 138.

“(b) The sale, distribution, or offering for sale of any inventory that was in stock before the commencement of a stewardship program is exempt from this section and is not required to be subject to a stewardship plan.

“Sec. 137. Covered entities and stewardship organizations.

“(a)(1) No later than January 1, 2021, a covered entity shall provide to the Mayor a list of covered products and a list and description of any sharps that are not covered products that it sells or offers for sale in the District.

“(2) A covered entity, or a stewardship organization on behalf of a covered entity, shall update the lists described in this subsection and provide the updated lists to DOEE on or before January 15 of each year or upon request by DOEE.

“(b) Each covered entity, whether individually or through a stewardship organization, shall pay all administrative and operational costs associated with establishing and implementing

...
the stewardship program in which it participates, including the cost of collecting, transporting, and disposing of covered products.

"Sec. 138. Stewardship plans.

(a) On or before January 1, 2021, each covered entity shall individually or as part of a stewardship organization submit a stewardship plan to DOEE for review.

(b) Each stewardship plan shall include, at a minimum:

(1) Contact information for the stewardship organization, if applicable, and each participating covered entity;

(2) Identification of each covered product sold or offered for sale by each participating covered entity;

(3) Contact information for the authorized collectors for the stewardship program, as well as the reasons for excluding any potential authorized collectors from participation in the program;

(4) Demonstration of adequate funding for all the administrative and operational costs of the stewardship program, to be covered by participating covered entities;

(5) A description of the handling, transport, and disposal system for all covered products, that complies with applicable District and federal laws, including policies and procedures for the safe and secure collection, transportation, and disposal of covered products;

(6) A description of the proposed collection system designed to provide convenient and ongoing collection services for covered products that:

(A) Complies with applicable District and federal laws;

(B) Provides for a minimum of one authorized collection site per 10,000 people; and
“(C) Provides for a reasonable geographic spread of authorized collection sites across all 8 wards, and an explanation for the geographic spread;

“(D) Includes a service schedule that meets the needs of each authorized collection site to ensure that each secure collection receptacle is serviced as often as necessary to avoid reaching capacity and that collected covered products are transported to final disposal in a timely manner; and

“(E) Provides that end user who is homeless, homebound, or disabled can obtain, by request, prepaid, preaddressed mail-back envelopes to safely dispose of covered products; and

“(7) A description of the educational and outreach provisions to meet the requirements in section 139.

“(c) (1) At least 120 days before submitting a proposed stewardship plan, the program operator shall notify potential authorized collectors of the opportunity to serve as an authorized collector for the proposed stewardship program.

“(2) A program operator shall include as an authorized collector under its stewardship program any entity that meets the definition of authorized collector and offers to participate in the stewardship program, in writing and without compensation, even if the minimum threshold in paragraph (6)(B) of this subsection has been met.

“(3) All retail pharmacies in the District shall serve as authorized collectors.

“(d) An approved stewardship plan shall have a term not to exceed 5 years, provided that the covered entity or stewardship organization remains in compliance with the requirements of this subtitle and the terms of the approved plan.

“Sec. 139. Education and outreach program.
“(a) A program operator shall conduct a comprehensive education and outreach program to promote participation in the stewardship program, including:

“(1) Promoting the stewardship program to end users by providing signage for hospitals, pharmacies, and other appropriate locations;

“(2) Providing educational and outreach materials for persons authorized to prescribe drugs, pharmacies, pharmacists, end users, and others;

“(3) Establishing a website and toll-free phone number that publicizes the location of authorized collectors and provides other information to promote use of the stewardship program; and

“(4) Preparing and providing additional outreach materials to promote the collection and proper management of home-generated sharps waste.

“(b) Within 6 months of the effective date of this subtitle, and annually thereafter, a program operator shall conduct a statistically meaningful survey of pharmacists, retailers, and health professionals who interact with patients on the use of sharps. The survey shall include questions designed to assess:

1. Awareness of the stewardship program, the stewardship plans in operation, and the location of all available collection sites; and

2. Whether collection methods are safe, convenient, easy to use, and used by end users.

“Sec. 140. Reporting and recordkeeping requirements.

“(a) On or before January 1, 2021, and annually thereafter, a program operator shall prepare and submit to DOEE a written report.
“(b) An annual report submitted under subsection (a) of this section shall include the following:

“(1) A list of covered entities participating in the stewardship organization;

“(2) An updated and verified list provided under section 137 of covered products that each covered entity subject to the stewardship plan sells or offers for sale;

“(3) The amount, by weight, of covered products collected from end users at each authorized collection site that is part of the stewardship program;

“(4) Whether policies and procedures for collecting, transporting, and disposing of covered products, as established in the stewardship plan, were followed during the reporting period, and a description of each instance of noncompliance, if applicable;

“(5) Whether any safety or security problems occurred during collection, transportation, or disposal of collected covered products during the reporting period and if so, what changes have been or will be made to policies, procedures, or tracking mechanisms to alleviate the problem and improve safety and security;

“(6) How the program operator complied with all elements in its stewardship plan;

“(7) Anticipated costs and recommended funding level necessary to implement the stewardship program for the following year; and

“(8) Any other information required by DOE.

“Sec. 141. Department responsibilities.

“(a) DOE shall post on its website a list, updated on an annual basis, of all stewardship organizations with an approved stewardship plan, and covered entities, authorized collection sites, and retail pharmacies provided in the stewardship plans.
“(b) DOEE shall assist in educational and outreach efforts to inform the public about the battery stewardship program.

“(c) DOEE may charge an administrative fee to producers to cover its oversight costs, including planning, plan review, annual oversight, enforcement, and other directly related tasks.

“(d) DOEE may impose an administrative penalty on any covered entity, program operator, stewardship organization, or authorized collector that sells, offers for sale, or provides a covered product in violation of this subtitle.

“Sec. 142. Antitrust; Conduct authorized.

“(a) A covered entity or stewardship organization implementing or participating in an approved stewardship plan under this subtitle shall be immune from liability for the conduct under District laws relating to antitrust, restraint of trade, unfair trade practices, to the extent that the conduct is reasonably necessary to comply with the provisions of this law.

“(b) Subsection (a) of this section shall not apply to an agreement among producers, groups of producers, retailers, wholesalers, or battery stewardship organizations affecting the price of covered products or any agreement restricting the geographic area in which, or customers to whom, covered products shall be sold.”.

Sec. 3. The Sustainable DC Omnibus Amendment Act of 2014, effective December 17, 2014 (D.C. Law 20-142; D.C. Official Code § 8-1531 et seq.), is amended as follows:

(a) Section 401 (D.C. Official Code § 8-1531) is amended as follows:

(1) Paragraphs (1) and (1A) are redesignated as paragraphs (1A) and (1B), respectively.

(2) A new paragraph (1) is added to read as follows:
“(1) “Accessory disposable food service ware” means any disposable food service
ware that is not used to hold or contain food. This includes straws, utensils, condiment cups and
packets, cup sleeves, and napkins, but does not include items such as containers or cups that are
used to hold or contain the food.”.

(3) A new paragraph (4A) is added to read as follows:

“(4A) “Industrial composting facility” means a facility that processes
compostable materials through composting, and can accept commercially compostable items
such as compostable food service ware.”.

(4) A new paragraph (4B) is added to read as follows:

“(4B) “Organic waste processing facility” means a facility that processes
compostable materials through composting, aerobic digestion, or anaerobic digestion.”.

(5) A new paragraph (4C) is added to read as follows:

“(4C) “Prepackaged food and beverages” means foods and beverages that are
packaged before being offered for sale to a consumer.”.

(6) A new paragraph (6) is added to read as follows:

“(7) “Reusable food service ware” means food service ware, including plates,
bowls, cups, trays, glasses, and utensils, that is manufactured and designed to be washed and
sanitized and used repeatedly over an extended period of time.”.

(b) Section 403 (D.C. Official Code § 8-1533) is amended to read as follows:

“Sec. 403. Compostable or recyclable disposable food service ware required.

“(a) A District facility, agency, or department using disposable food service ware shall
use compostable or recyclable disposable food service ware; provided, that any District facility,
agency, or department using compostable disposable food service ware shall be subject to the
requirements in subsection (d) of this section.

(b) A District contractor or lessee using disposable food service ware shall use
compostable or recyclable disposable food service ware; provided, that any District contractor or
lessee using compostable disposable food service ware shall be subject to the requirements in
subsection (d) of this section.

(c) By January 1, 2017, no food service entity shall sell or provide food or beverages,
for consumption on or off premises, in disposable food service ware unless the disposable food
service ware is compostable or recyclable; provided, that this subsection shall not apply to
prepackaged food or beverages that were filled and sealed outside of the District before a food
service entity received them, and that any food service entity selling or providing food in
compostable food service ware shall be subject to the requirements in subsection (d) of this
section.

(d) By January 1, 2021, any food service entity or District facility, agency, department,
contractor, or lessee using or providing compostable disposable food service ware pursuant to
this section shall:

(1) Source-separate all compostable materials generated at its premises and
arrange for compostable material to be transported to an organic waste processing facility or
composted on site; provided, that:

(A) Compostable material shall be transported to an organic waste
processing facility that can process the compostable disposable food service ware, for example,
if the food service ware can only be processed by an industrial composting facility, the food
service entity shall arrange for compostable materials to be transported to such a facility; and
“(B) On-site composting shall be in-vessel and equipment shall be properly sized to handle and process organic generated at the premises in a safe and sanitary manner;

“(2) Provide separate bins for the disposal of compostable material waste in any area where such compostable material is generated and disposed of;

“(3) Ensure proper storage for compostable materials onsite that will ensure that it is maintained separately from all other materials generated at the premises, is not commingled with recyclable material or trash, and does not create a public nuisance;

“(4) Provide information and training to employees concerning the proper methods to separate and store compostable materials, as well as posted instructions on the proper separation of compostable materials where such instructions will be visible to persons who are disposing of compostable materials; and

“(5) Post a sign that states clearly and legibly the trade or business name, address, and telephone number of, and the day and time of pickup by, the private collector that collects the compostable materials, that such establishment transports its own compostable materials, or that such establishment provides for on-site processing for all compostable materials it generates on its premises.

“(e) (1) By January 1, 2021, food service entities shall provide accessory disposable food service ware only upon request by the customer or at a self-serve station.

“(2) Food service entities shall provide options for customers to affirmatively request accessory disposable food service ware across all ordering platforms, including digital platforms, telephone, and in-person. This requirement shall apply even when a food service entity uses a third-party ordering platform.”.
(c) A new section 406a is added to read as follows:

"Sec. 406a Reusable food service ware required for dining on the premises.

(a) By January 1, 2021, when selling or providing food and beverages for consumption on the premises, food service entities shall only use reusable food service ware, except as provided in subsection (b) of this section.

(b)(1) Food service entities that do not have on-site or off-site dishwashing capacity to wash, rinse, and sanitize reusable foodware may request a full or partial waiver from the requirements of subsection (a)(1) of this section if they can demonstrate inability to comply due to space constraints and financial hardship.

(2) Disposable paper food wrappers, sleeves, and bags, foil wrappers, paper napkins, straws, and paper tray- and plate-liners shall be allowed for dining on the premises as long as they meet the requirements for disposable food service ware under section 403.

(3) The requirement in subsection (a) of this section shall not apply to prepackaged food items.

(4) The requirements in subsection (a) of this section shall not apply to food service entities that have limited capacity for on-premises consumption, or to food service entities that have a shared onsite dining space, such as a food hall or food court, where there is no designated space for the food service entity.

(5) Food service entities may comply with this section by offering compostable food service ware and providing for disposal in accordance with section 403(d).

(c) Upon the effective date of this section, new business licenses for food service entities shall only be granted to entities that have adequate onsite or offsite dishwashing capacity to comply with subsection (a) of this section.".
“(d) DOEE shall make available grants for food service entities to help cover the costs of coming into compliance with this section, such as dishwashing capacity or reusable food service ware.”.

Sec. 4. Section 704.2 of title 21 of the District of Columbia Municipal Regulations is repealed.

Sec. 5. Fiscal impact statement.


Sec. 6. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(l) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(l)), and publication in the District of Columbia Register.