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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 1426

02/22/2021 Authored by Jordan

The bill was read for the first time and referred to the Committee on Environment and Natural Resources Finance and Policy

1.1 A bill for an act
1.2 relating to environment; establishing carpet stewardship program; proposing coding
1.3 for new law in Minnesota Statutes, chapter 115A.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. **[115A.143] CARPET STEWARDSHIP PROGRAM ESTABLISHMENT;**
1.6 **PRODUCER PARTICIPATION REQUIRED.**

1.7 Subdivision 1. Establishment. A carpet stewardship program is established to reduce
1.8 carpet-related waste generation by promoting the collection and recycling of discarded
1.9 carpet.

1.10 Subd. 2. Producer participation required. Beginning January 1, 2022, a producer may
1.11 not sell carpet in this state unless the producer is in compliance with the requirements of
1.12 sections 115A.143 to 115A.1455.

1.13 Subd. 3. Fee adjustment. It is the intent of the legislature that the stewardship assessment
1.14 be an amount sufficient to generate adequate revenue to implement the stewardship plan
1.15 and to meet the recycling rate goals set forth in the plan. The commissioner must adjust the
1.16 stewardship assessment as needed to accomplish this goal. Adjustments are exempt from
1.17 the rulemaking provisions of chapter 14, and section 14.386 does not apply.

1.18 Sec. 2. **[115A.1435] DEFINITIONS.**

1.19 For purposes of sections 115A.143 to 115A.1455, the following terms have the meanings
1.20 given:

2.1 (1) "brand" means a name, symbol, word, or mark that identifies the carpet, rather than
2.2 the carpet's components, and attributes the product to the owner or licensee of the brand as
2.3 the producer;

2.4 (2) "carpet" means a manufactured article that is primarily constructed of a top visible
2.5 surface of synthetic face fibers, yarns, or tufts attached to a backing system derived from
2.6 synthetic or natural materials and that is affixed or placed on the floor or walking surface
2.7 of a commercial or residential building as a decorative or functional building interior or
2.8 exterior feature. Carpet includes broadloom carpet, modular carpet tiles, and artificial turf.
2.9 Carpet does not include handmade rugs, area rugs, or mats;

2.10 (3) "carpet installer" means a person who removes discarded carpet in the course of
2.11 installing carpet or replacing the discarded carpet with a different type of flooring;

2.12 (4) "clearinghouse" means the carpet stewardship clearinghouse established under section
2.13 115A.144;

2.14 (5) "collection site" means a site at which discarded carpet is accepted for collection and
2.15 transfer to a recycler and whose owner or operator has notified the clearinghouse that the
2.16 site accepts discarded carpet for this purpose;

2.17 (6) "discarded carpet" means carpet that is no longer used for the carpet's manufactured
2.18 purpose;

2.19 (7) "distributor" means a person who buys or otherwise acquires carpet from another
2.20 source and sells or offers to sell that carpet to a retailer in this state;

2.21 (8) "producer" means a person that:

2.22 (i) has legal ownership of the brand, brand name, or cobrand of carpet sold in the state;

2.23 (ii) imports carpet branded by a producer that meets item (i) when the producer has no
2.24 physical presence in the United States;

2.25 (iii) if items (i) and (ii) do not apply, makes unbranded carpet that is sold in the state;

2.26 or

2.27 (iv) sells carpet at wholesale or retail, does not have legal ownership of the brand, and
2.28 elects to fulfill the responsibilities of the producer for the carpet by certifying that election
2.29 in writing to the commissioner;

2.30 (9) "recycler" means a person engaged in the business of recycling;

2.31 (10) "recycling" means the process by which discarded carpet is processed and returned
2.32 to the market in the form of raw materials or products. For purposes of quantifying the

3.1 amount of discarded carpet that is recycled, only the weight of the end product of the
 3.2 recycling process is considered. Recycling does not include energy recovery, energy
 3.3 generation by means of combusting discarded carpet, or disposal or use of discarded carpet
 3.4 within the permitted boundaries of a municipal solid waste landfill unit;

3.5 (11) "recycling rate" means the percentage of discarded carpet that is recycled. The
 3.6 recycling rate is calculated by dividing the amount of discarded carpet that is collected and
 3.7 recycled by the total amount of discarded carpet generated over a program year. To determine
 3.8 the annual recycling rates required under the program, the amount of discarded carpet
 3.9 generated must be calculated using a standard recognized methodology based on annual
 3.10 sales, replacement rate, and the average weight of carpet and must be approved by the
 3.11 commissioner;

3.12 (12) "retailer" means any person who offers carpet for sale at retail in this state;

3.13 (13) "sale" or "sell" means a transfer of title to carpet for consideration, including a
 3.14 remote sale conducted through a sales outlet, catalog, website, or similar electronic means.
 3.15 Sale or sell includes a lease through which carpet is provided to a consumer by a producer,
 3.16 distributor, or retailer;

3.17 (14) "stewardship assessment" means the following, as applicable, for each square foot
 3.18 of carpet sold in this state:

3.19 (i) four cents for polypropylene carpet, wool carpet, and carpet with a uniform face fiber
 3.20 made with either nylon 6 or nylon 6,6; and

3.21 (ii) six cents for carpet made from polyethylene terephthalate, carpet made from
 3.22 polytrimethylene terephthalate, and carpet with a nonuniform face fiber, which is
 3.23 manufactured with multiple polymer types, fiber types, or both, in the face of the constructed
 3.24 material;

3.25 (15) "stewardship assessment account" means an account established by the clearinghouse
 3.26 in a bank chartered in Minnesota for the purposes of section 115A.1455; and

3.27 (16) "stewardship plan" means the current plan, and any amendments, approved by the
 3.28 agency under section 115A.1445, subdivision 2.

3.29 **Sec. 3. [115A.144] CARPET STEWARDSHIP CLEARINGHOUSE.**

3.30 Subdivision 1. **Establishment.** The commissioner must incorporate a carpet stewardship
 3.31 clearinghouse as a nonprofit corporation to administer the carpet stewardship program
 3.32 established under section 115A.143.

4.1 Subd. 2. **Members.** The commissioner must appoint 11 members to serve on the board
4.2 of the clearinghouse as follows:

4.3 (1) one representative of a statewide association representing retailers;

4.4 (2) two representatives of producers;

4.5 (3) two representatives of recyclers;

4.6 (4) one representative of statewide associations representing waste disposal companies;

4.7 (5) one representative of an environmental organization;

4.8 (6) one representative of county or municipal waste management programs;

4.9 (7) two representatives of companies that use discarded carpet to manufacture products
4.10 other than new carpet; and

4.11 (8) one representative of carpet installers.

4.12 Subd. 3. **Terms; vacancies.** A member must serve on the board of the clearinghouse at
4.13 the pleasure of the commissioner, or until a successor is appointed. Vacancies shall be filled
4.14 by the commissioner.

4.15 Subd. 4. **Compensation.** Members of the clearinghouse shall serve without compensation
4.16 but must be reimbursed for travel expenses from the stewardship assessment account.

4.17 Subd. 5. **Staff.** The clearinghouse may hire a director and staff and may organize itself
4.18 into committees to implement sections 115A.143 to 115A.1455. Staff must be compensated
4.19 from the stewardship assessment account.

4.20 Subd. 6. **Duties.** The clearinghouse's duties include:

4.21 (1) preparing and implementing the stewardship plan and any necessary amendments
4.22 to the plan according to section 115A.1445;

4.23 (2) negotiating and executing agreements that provide for collecting, transporting, and
4.24 recycling discarded carpet in this state. The agreements may provide for these activities to
4.25 be undertaken voluntarily or for compensation through funds made available from the
4.26 stewardship assessment account. Nothing in this section shall be construed to require a
4.27 person to enter into an agreement with the clearinghouse in order to serve as a collection
4.28 site;

4.29 (3) by April 1, 2023, and every year thereafter, submitting an annual report to the
4.30 commissioner that describes the extent to which the goals, activities, and financial

5.1 assumptions described in the stewardship plan were achieved during the previous calendar
 5.2 year. Each report must include summary information about:

5.3 (i) how much carpet was sold, collected, recycled, and otherwise disposed of, broken
 5.4 down by region;

5.5 (ii) the number and location of collection sites;

5.6 (iii) program revenue, expenditures, and financial activities; and

5.7 (iv) any other information requested by the commissioner;

5.8 (4) using money in the stewardship assessment account according to section 115A.1455;

5.9 (5) notifying the commissioner and the chairs and ranking minority members of the
 5.10 legislative committees with jurisdiction over environment finance if the stewardship
 5.11 assessments collected during a calendar year substantially exceed or fall below the amount
 5.12 required to adequately fund the carpet stewardship program;

5.13 (6) keeping the commissioner informed of the current list of collection sites;

5.14 (7) notifying the commissioner of violations of sections 115A.143 to 115A.1455 so that
 5.15 the commissioner can remedy violations using the agency's authority under sections 115.071
 5.16 and 116.072; and

5.17 (8) performing any other action requested by the commissioner.

5.18 **EFFECTIVE DATE.** This section is effective the day following final enactment.

5.19 **Sec. 4. [115A.1445] STEWARDSHIP PLAN.**

5.20 Subdivision 1. **Submission of plan; contents.** By July 1, 2022, and every three years
 5.21 thereafter, the clearinghouse must submit to the commissioner a carpet stewardship plan
 5.22 that:

5.23 (1) covers a three-year period beginning on January 1 of the year following the year in
 5.24 which the plan is due;

5.25 (2) includes a certification that the carpet stewardship program will provide for recycling
 5.26 all discarded carpet collected at collection sites, regardless of type, producer, or constituent
 5.27 components;

5.28 (3) includes contact information for each individual representing the clearinghouse;

5.29 (4) designates a program manager responsible for administering the program in this
 5.30 state;

6.1 (5) lists all producers participating in, or expected to participate in, the carpet stewardship
6.2 program;

6.3 (6) lists all brands participating in, or expected to participate in, the carpet stewardship
6.4 program;

6.5 (7) describes the methods by which discarded carpet will be collected and transported
6.6 to recyclers in this state;

6.7 (8) explains how the carpet stewardship program will ensure that collection sites are
6.8 placed in all counties with a population density of greater than or equal to 100 individuals
6.9 per square mile by January 1, 2022, and all counties with a population density of greater
6.10 than or equal to 50 individuals per square mile for 2025 and thereafter;

6.11 (9) beginning with the plan due on July 1, 2024, estimates the cost of making collection
6.12 sites available in every county;

6.13 (10) explains how the clearinghouse will monitor, evaluate, and maintain the carpet
6.14 stewardship program;

6.15 (11) lists the name and business location of every collector, transporter, and recycler
6.16 that will manage discarded carpet under the program;

6.17 (12) sets program recycling rate goals for the percentage of discarded carpet produced
6.18 in this state that will be collected and recycled during each year of the plan. The recycling
6.19 rate goal must be no less than 15 percent for 2024, 20 percent for 2025 and 2026, 30 percent
6.20 for 2027 and 2028, 40 percent for 2029 and 2030, and 50 percent for 2031 and subsequent
6.21 years. The methodology used to develop the goals must be included in the plan and goals
6.22 must take into consideration:

6.23 (i) the most recent collection data from this and other states;

6.24 (ii) the estimated amount of discarded carpet disposed of annually; and

6.25 (iii) the weight of discarded carpet that is expected to be available for collection annually;

6.26 (13) describes the state of markets for discarded carpet and products made from recycled
6.27 discarded carpet and what, if any, markets need further development in order to improve
6.28 the success of the carpet stewardship program;

6.29 (14) explains the funding structure of the carpet stewardship program, including the
6.30 administrative, operational, and capital costs of the plan and the cost of payments to carpet
6.31 collectors, transporters, recyclers, and end-use markets;

6.32 (15) explains annual revenue and expense projections for the program;

7.1 (16) explains how clearinghouse activities will be independently audited on an annual
 7.2 basis;

7.3 (17) includes copies of educational materials that will be used to:

7.4 (i) train operators of collection sites on how to properly collect discarded carpet and
 7.5 eliminate contamination;

7.6 (ii) train carpet installers on how to properly manage discarded carpet so that it can be
 7.7 collected and recycled; and

7.8 (iii) inform retail purchasers of carpet about options available through the carpet
 7.9 stewardship program for handling discarded carpet and about the importance of recycling;

7.10 (18) explains how the clearinghouse will coordinate with carpet stewardship programs
 7.11 in other jurisdictions; and

7.12 (19) includes any other information requested by the commissioner.

7.13 Subd. 2. **Review and approval of plan and plan amendments.** Within 90 days of
 7.14 receiving the stewardship plan or an amendment to a stewardship plan, the commissioner
 7.15 must review the plan or plan amendment and approve the plan if it complies with the
 7.16 requirements of this section or reject it if it does not. The commissioner must notify the
 7.17 clearinghouse in writing of a decision under this subdivision, and the reasons for the decision,
 7.18 within 14 days. If a plan or plan amendment is rejected, the clearinghouse must submit a
 7.19 revised plan or plan amendment to the commissioner within 60 days of receipt of the rejection
 7.20 notice. A plan or plan amendment may not take effect until approved under this subdivision.

7.21 Sec. 5. **[115A.145] DUTIES OF PRODUCERS, RETAILERS, INSTALLERS,**
 7.22 **COLLECTION SITES, RECYCLERS, AND AGENCY.**

7.23 Subdivision 1. **Producer duties.** Beginning January 1, 2022, a producer must:

7.24 (1) remit to the clearinghouse on a quarterly basis the applicable stewardship assessment
 7.25 for all carpet sold in this state, information about which must be considered private and
 7.26 proprietary information;

7.27 (2) provide to retail purchasers of carpet the educational materials described in the
 7.28 stewardship plan; and

7.29 (3) annually register as a producer with the agency.

7.30 Subd. 2. **Retailer duties.** Beginning January 1, 2022, a retailer must provide the
 7.31 educational materials described in the stewardship plan to retail purchasers of carpet.

8.1 Subd. 3. **Installer duties.** (a) Beginning January 1, 2025, a carpet installer who removes
8.2 or uninstalls discarded carpet in Hennepin, Ramsey, Anoka, Washington, or Dakota County
8.3 must dispose of the discarded carpet by taking it to a collection site in accordance with the
8.4 stewardship plan.

8.5 (b) Beginning January 1, 2028, a carpet installer who removes or uninstalls discarded
8.6 carpet in Sherburne, Wright, Carver, Scott, or Olmsted County must dispose of the discarded
8.7 carpet by taking it to a collection site in accordance with the stewardship plan.

8.8 Subd. 4. **Agency duties.** The commissioner must:

8.9 (1) post on the agency website a current list of producers registered with the agency
8.10 according to subdivision 1 and a current list of collection sites identified under section
8.11 115A.144, subdivision 6, clause (6);

8.12 (2) post the stewardship plan on the agency website;

8.13 (3) post to the agency website a copy of all annual accounting reports received according
8.14 to section 115A.144, subdivision 6, clause (4); and

8.15 (4) monitor and oversee the clearinghouse's implementation of the stewardship plan and
8.16 require specific actions when needed to comply with the plan or with sections 115A.143 to
8.17 115A.1455.

8.18 Subd. 5. **Collection site duties.** (a) Beginning January 1, 2022, a collection site must:

8.19 (1) ensure that discarded carpet accepted at the collection site is stored in a manner and
8.20 location that allows the carpet to remain dry at all times and in containers that are free of
8.21 all waste other than discarded carpet;

8.22 (2) allow each recycler to which the collection site transfers discarded carpet to house
8.23 a container approved by the recycler on site for acceptance and pickup by the recycler; and

8.24 (3) for a collection site located at a waste transfer, waste disposal, or recycling facility
8.25 permitted by the agency, charge the person transferring the discarded carpet to the collection
8.26 site the customary and proprietary collection and disposal fees.

8.27 (b) A collection site may not charge a recycler a fee for removal and transfer of discarded
8.28 carpet from the collection site.

8.29 Subd. 6. **Recycler duties.** Beginning January 1, 2022, a recycler must remove discarded
8.30 carpet from a container approved by the recycler under subdivision 5, paragraph (a), clause
8.31 (2), within three days of being notified by a collection site that the container is full.

9.1 Sec. 6. [115A.1455] STEWARDSHIP ASSESSMENT ACCOUNT.

9.2 Subdivision 1. Mandatory duties and uses. With respect to the stewardship assessment
9.3 account, the clearinghouse must:

9.4 (1) hire an independent professional accounting firm to annually review and verify the
9.5 accuracy of the amount of stewardship assessments remitted to the clearinghouse by
9.6 producers according to section 115A.145, subdivision 1;

9.7 (2) deposit stewardship assessment revenue received pursuant to section 115A.145,
9.8 subdivision 1, in the stewardship assessment account;

9.9 (3) beginning January 1, 2023, pay the agency an annual fee from the stewardship
9.10 assessment account to cover the agency's costs of carpet stewardship program oversight.
9.11 The amount of the fee is the lesser of two percent of the total amount of stewardship
9.12 assessments collected during the prior calendar year, or \$300,000;

9.13 (4) upon repeal of sections 115A.143 to 115A.1455, remit the balance of the stewardship
9.14 assessment account to the commissioner for deposit in the remediation fund established
9.15 under section 116.155; and

9.16 (5) authorize other expenditures from the account as authorized by sections 115A.143
9.17 to 115A.1455.

9.18 Subd. 2. Permissive uses. The clearinghouse may use money in the stewardship
9.19 assessment account:

9.20 (1) to reimburse the reasonable costs of a collection site to adapt the site for discarded
9.21 carpet collection, including but not limited to onetime costs for constructing the needed
9.22 structure to make collecting discarded carpet safe and convenient; and

9.23 (2) to pay a collection site \$20 per ton for all discarded carpet collected and transferred
9.24 to a recycler according to sections 115A.143 to 115A.1455.