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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 3320

05/13/2023 Authored by Kraft, Pursell, Jordan, Hemmingsen-Jaeger, Her and others
03/11/2024 Adoption of Report: Amended and re-referred to the Committee on Commerce Finance and Policy

1.1 A bill for an act
1.2 relating to recycling; establishing product stewardship program for boat wrap;
1.3 appropriating money; proposing coding for new law in Minnesota Statutes, chapter
1.4 115A.

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

1.6 Section 1. [115A.1416] BOAT WRAP PRODUCT STEWARDSHIP PROGRAM.

1.7 Subdivision 1. Definitions. (a) For the purposes of this section, the following terms have
1.8 the meanings given.

1.9 (b) "Boat" has the meaning given to watercraft under section 86B.005, subdivision 18.

1.10 (c) "Boat wrap" means low-density polyethylene plastic that is used to wrap around a
1.11 boat to protect it against moisture and damage from other potentially harmful elements
1.12 during storage.

1.13 (d) "Brand" means a name, symbol, word, or mark that identifies boat wrap and attributes
1.14 it to the boat wrap producer.

1.15 (e) "Producer" means:

1.16 (1) a manufacturer of boat wrap sold under the manufacturer's own brand; or

1.17 (2) the owner or licensee of a brand of boat wrap that is manufactured by others.

1.18 (f) "Recycle" or "recycling" means the process of transforming boat wrap through
1.19 mechanical processes into a finished product for use or into a new material capable of being
1.20 processed into a finished product. Recycle or recycling does not include:

1.21 (1) altering the chemical structure of boat wrap;

2.1 (2) using boat wrap as or processing boat wrap into a feedstock to produce transportation
2.2 fuels or plastics; or

2.3 (3) destroying boat wrap by incineration or other processes.

2.4 (g) "Retailer" means a person that offers boat wrap for sale at retail in or into this state.

2.5 (h) "Stewardship organization" means an organization designated by one or more
2.6 producers to act on their behalf as an agent to design, submit, and implement a product
2.7 stewardship plan under this section.

2.8 Subd. 2. **Product stewardship program.** A producer selling or offering boat wrap for
2.9 sale in or into this state must, through membership in a stewardship organization, implement
2.10 and finance a statewide product stewardship program to reduce the volume of boat wrap
2.11 disposed of in landfills by promoting and providing for the negotiation and execution of
2.12 agreements to collect, transport, and recycle boat wrap.

2.13 Subd. 3. **Participation required to sell.** (a) On and after July 1, 2025, or, for boat wrap
2.14 brands not sold in or into this state before that date, no later than three months after a
2.15 producer's stewardship plan is approved by the commissioner under this section, no producer,
2.16 wholesaler, or retailer may sell or offer boat wrap for sale in or into this state unless the
2.17 producer participates in an approved stewardship plan through a stewardship organization.

2.18 (b) Each producer must enter into an agreement with a stewardship organization to
2.19 operate, on the producer's behalf, a product stewardship program approved by the
2.20 commissioner.

2.21 (c) All producers offering boat wrap for sale in or into this state must become a member
2.22 of a single stewardship organization implementing a single stewardship plan.

2.23 Subd. 4. **Stewardship plan required.** On or before March 1, 2025, and before first
2.24 offering boat wrap for sale in or into this state, a producer must submit a stewardship plan
2.25 to the commissioner or must submit documentation to the commissioner demonstrating that
2.26 the producer has entered into an agreement with a stewardship organization to be an active
2.27 participant in a product stewardship program approved by the commissioner under
2.28 subdivision 7. A stewardship plan must include all elements required under subdivision 5.

2.29 Subd. 5. **Plan content.** A stewardship plan must contain:

2.30 (1) contact information for the individual and the entity submitting the plan, a list of all
2.31 producers participating in the product stewardship program, and the brands of boat wrap
2.32 included in the product stewardship program;

3.1 (2) certification that the product stewardship program will accept all discarded boat wrap
3.2 regardless of who produced it;

3.3 (3) a description of methods by which boat wrap will be collected in all areas of the state
3.4 without relying on end-of-life fees paid by boat wrap purchasers, including an explanation
3.5 of how the collection system will be convenient and adequate to serve the needs of boat
3.6 owners, marinas, and boat storage establishments in both urban and rural areas on an ongoing
3.7 basis and a discussion of how existing marinas, boat storage establishments, and sites
3.8 designated as recycling centers under section 115A.555 will be considered when selecting
3.9 collection sites;

3.10 (4) a description of how the performance of the collection and recycling program will
3.11 be measured, monitored, and maintained;

3.12 (5) the names and locations of collectors, transporters, and recyclers that will manage
3.13 discarded boat wrap;

3.14 (6) a description of how discarded boat wrap will be safely and securely transported,
3.15 tracked, and handled from collection through final recycling and disposal;

3.16 (7) a description of the methods that will be used to separate and manage nonrecyclable
3.17 materials attached to boat wrap and to recycle discarded boat wrap;

3.18 (8) a description of:

3.19 (i) the promotion and outreach activities that will be undertaken to encourage participation
3.20 in the boat wrap collection and recycling programs and how their effectiveness will be
3.21 evaluated; and

3.22 (ii) the process that will be followed to modify the program, when necessary;

3.23 (9) the annual performance goals established by the commissioner under subdivision
3.24 12;

3.25 (10) evidence of adequate insurance and financial assurance that may be required for
3.26 collection, handling, and disposal operations; and

3.27 (11) a discussion of the status of end markets for collected boat wrap and what, if any,
3.28 additional end markets are needed to improve the functioning of the program.

3.29 Subd. 6. **Consultation required.** In developing a stewardship plan, a stewardship
3.30 organization or individual producer submitting a stewardship plan must consult with
3.31 stakeholders, including boat owners, owners of marinas and boat storage establishments,
3.32 contractors, collectors, recyclers, and local units of government.

4.1 Subd. 7. **Agency review and approval.** (a) Within 90 days after receiving a proposed
4.2 stewardship plan, the commissioner must determine whether the plan complies with
4.3 subdivision 5. If the commissioner approves a plan, the commissioner must notify the
4.4 applicant of the plan approval in writing. If the commissioner rejects a plan, the commissioner
4.5 must notify the applicant in writing of the reasons for rejection. An applicant whose plan
4.6 is rejected by the commissioner must submit a revised plan to the commissioner within 60
4.7 days after receiving notice of rejection. If a revised plan is rejected by the commissioner,
4.8 the commissioner may elect to write a plan that the applicant must implement.

4.9 (b) A stewardship organization is responsible for notifying the commissioner of any
4.10 proposed changes or modifications to the plan or its implementation. A written plan revision
4.11 must be submitted to the commissioner for review and may not be implemented without
4.12 written approval from the commissioner.

4.13 (c) A stewardship organization may operate under an approved stewardship plan for
4.14 five years.

4.15 (d) Six months before an approved stewardship plan expires, a stewardship organization
4.16 must submit a new plan for commissioner approval that meets the requirements of this
4.17 section. The commissioner must review the new plan according to this subdivision.

4.18 Subd. 8. **Plan availability.** The commissioner must make a draft stewardship plan
4.19 available on the agency's website and at the agency's headquarters for public review and
4.20 comment at least 30 days before the commissioner's decision regarding plan approval. The
4.21 commissioner must make an approved stewardship plan available on the agency's website
4.22 and at the agency's headquarters.

4.23 Subd. 9. **Conduct authorized.** A stewardship organization that organizes collection,
4.24 transport, and recycling of boat wrap under this section is immune from liability for conduct
4.25 under state laws relating to antitrust, restraint of trade, unfair trade practices, and other
4.26 regulation of trade or commerce only to the extent that the conduct is necessary to plan and
4.27 implement the producer's or organization's chosen organized collection or recycling program.

4.28 Subd. 10. **Stewardship organization responsibilities.** A stewardship organization must
4.29 provide boat wrap purchasers with educational materials regarding the product stewardship
4.30 program. The materials must include, but are not limited to, information regarding available
4.31 end-of-life management options for boat wrap offered through the product stewardship
4.32 program.

5.1 Subd. 11. **Retailer responsibilities.** (a) A retailer is responsible for reviewing the list
5.2 of compliant producers on the agency's website, maintained under subdivision 12, to
5.3 determine whether a producer is compliant with this section.

5.4 (b) A retailer or wholesaler of boat wrap is not in violation of this subdivision if, on the
5.5 date the boat wrap was ordered from a producer or wholesaler, the producer was listed as
5.6 compliant on the agency's website.

5.7 (c) A retailer may elect to participate as a designated point where boat wrap is collected
5.8 as part of a product stewardship program approved under this section and in accordance
5.9 with applicable law.

5.10 Subd. 12. **Agency responsibilities.** (a) The commissioner must maintain on the agency
5.11 website a list of all compliant producers and brands participating in stewardship plans that
5.12 the commissioner has approved and a list of all producers and brands the commissioner has
5.13 identified as noncompliant with this section.

5.14 (b) The commissioner must, in consultation with the stewardship organization, establish
5.15 annual performance goals regarding the percentage and weight of boat wrap collected and
5.16 recycled that the stewardship organization must incorporate into its stewardship plan and
5.17 meet annually. The goals must increase each year. By the end of the fifth year of the initial
5.18 product stewardship plan approved by the commissioner, no less than 50 percent of the total
5.19 weight of boat wrap sold in this state must be collected and recycled, and by the end of the
5.20 fifth year of the second product stewardship plan, no less than 80 percent of the total weight
5.21 of boat wrap sold in this state must be collected and recycled. The performance goals, whose
5.22 derivation must be described, must be based on:

5.23 (1) the most recent collection data available for the state;

5.24 (2) the estimated weight of boat wrap discarded annually; and

5.25 (3) actual collection data from boat wrap recycling or stewardship programs operating
5.26 in other states.

5.27 Subd. 13. **Administrative fee.** (a) A stewardship organization must pay an annual
5.28 administrative fee to the commissioner. Before June 1, 2025, and before each June 1
5.29 thereafter, the commissioner must identify the costs the agency incurs to administer and
5.30 enforce this section. The commissioner must set the fee at an amount that, when paid by
5.31 the stewardship organization, is sufficient to reimburse the agency's full costs of administering
5.32 and enforcing this section but does not exceed those costs.

6.1 (b) A stewardship organization must pay the administrative fee required under this
6.2 subdivision on or before July 1, 2025, and annually thereafter, on a schedule and in a manner
6.3 prescribed by the commissioner.

6.4 (c) The commissioner must deposit all fees received under this subdivision in the account
6.5 established in subdivision 15.

6.6 Subd. 14. **User fees prohibited.** A stewardship organization or retailer may not charge
6.7 a fee to a person for providing boat wrap for collection and recycling under a stewardship
6.8 program approved by the commissioner under this section.

6.9 Subd. 15. **Account established.** (a) A boat wrap stewardship account is established in
6.10 the special revenue fund in the state treasury. The account consists of money received from
6.11 the administrative fee established in subdivision 13. The commissioner must manage the
6.12 account.

6.13 (b) Money in the account is appropriated annually to the commissioner for administering
6.14 and enforcing this section.

6.15 Subd. 16. **Stewardship reports.** Beginning March 1, 2026, and each March 1 thereafter,
6.16 a stewardship organization operating under this section must submit an annual report to the
6.17 commissioner describing the program operations of the stewardship plan during the previous
6.18 calendar year. At a minimum, the report must contain:

6.19 (1) a description of the methods used to collect, transport, and process discarded boat
6.20 wrap in all regions of the state;

6.21 (2) the weight of all boat wrap collected in each separate region of the state;

6.22 (3) a comparison of the amount of boat wrap collected with the performance goals
6.23 established in the stewardship plan and, if the goals have not been met, a discussion of
6.24 actions the stewardship organization will take to ensure that they are achieved in the future;

6.25 (4) the weight of discarded boat wrap collected in the state by method of disposition,
6.26 including recycling and other methods of processing;

6.27 (5) a comparison of program performance with the performance goals established by
6.28 the commissioner under subdivision 12 and, if applicable, a discussion of why the
6.29 performance goals were not met and proposed modifications to the collection program the
6.30 stewardship organization will implement to ensure that future performance goals will be
6.31 met;

7.1 (6) samples of educational materials provided to boat wrap consumers, marinas, and
7.2 boat storage establishments and an evaluation of the effectiveness of the materials and the
7.3 methods used to disseminate the materials; and

7.4 (7) an independent financial audit of stewardship organization activities.

7.5 Subd. 17. **Data classification.** Trade secret and sales information, as defined under
7.6 section 13.37, submitted to the commissioner under this section are private or nonpublic
7.7 data under section 13.37.

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