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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 842

02/08/2021

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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; amending  
1.3 Minnesota Statutes 2020, section 115A.142; proposing coding for new law in  
1.4 Minnesota Statutes, chapter 115A.

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

1.6 Section 1. 115A.141 CARPET PRODUCTS; STEWARDSHIP PROGRAM;  
1.7 STEWARDSHIP PLAN.

1.8 Subdivision 1. Definitions. For purposes of this section, the following terms have the  
1.9 meanings given:

1.10 (1) "blended carpet" means carpet with a nonuniform face fiber, which is manufactured  
1.11 with multiple polymer types, fiber types, or both, in the face of the constructed material;

1.12 (2) "brand" means a name, symbol, word, or mark that identifies carpet, rather than its  
1.13 components, and attributes the carpet to the owner or licensee of the brand as the producer;

1.14 (3) "carpet" means a manufactured article that is affixed or placed on the floor or building  
1.15 walking surface or used as a decorative or functional building interior or exterior feature,  
1.16 and is primarily constructed of a top visible surface of synthetic face fibers or yarns or tufts  
1.17 attached to a backing system derived from synthetic or natural materials. Carpet includes,  
1.18 but is not limited to, blended carpet, nylon carpet, PET carpet, polypropylene carpet, PTT  
1.19 carpet, wool carpet, commercial or residential broadloom carpet, modular carpet tiles, and  
1.20 artificial turf. Carpet includes a pad or underlayment used in conjunction with a carpet.

1.21 Carpet does not include handmade rugs, area rugs, or mats;

2.1 (4) "discarded carpet" means carpet that is no longer used for its manufactured purpose,  
2.2 and may include carpet that is being evaluated for reuse and directed to reuse, as defined  
2.3 in this section;

2.4 (5) "distributor" means a person who buys or otherwise acquires carpet from another  
2.5 source and sells or offers to sell that carpet to retailers and installers in this state;

2.6 (6) "nylon carpet" means carpet made with a uniform face fiber made with either nylon  
2.7 6 or nylon 6,6;

2.8 (7) "PET carpet" means carpet made from polyethylene terephthalate;

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

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

2.11 (ii) imports carpet branded by a producer that meets the specifications of item (i) when  
2.12 the producer has no physical presence in the United States;

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

2.14 or

2.15 (iv) sells carpet at wholesale or retail, does not have legal ownership of the brand, and  
2.16 elects to fulfill the responsibilities of the producer for the carpet;

2.17 (9) "polypropylene carpet" means carpet made from polypropylene;

2.18 (10) "program year" means a calendar year;

2.19 (11) "PTT carpet" means carpet made from polytrimethylene terephthalate;

2.20 (12) "recycling" means the process by which discarded carpet is collected and processed  
2.21 into raw materials or products. Recycling includes only discarded carpet that is an output  
2.22 of a recycling facility destined for an end market or reuse and does not include all discarded  
2.23 carpet accepted by a recycling facility. Recycling does not include:

2.24 (i) energy recovery or energy generation by means of combusting discarded carpet; and

2.25 (ii) any disposal or use of discarded carpet within the permitted boundaries of a disposal  
2.26 facility;

2.27 (13) "recycling rate" means the percentage of discarded carpet that is managed through  
2.28 recycling or reuse, as defined in this section, and is calculated by dividing the amount of  
2.29 discarded carpet that is collected and recycled or reused by the total amount of discarded  
2.30 carpet generated over a program year. To determine the annual recycling rates required by  
2.31 this section, the amount of discarded carpet generated must be calculated using a standard

3.1 recognized methodology based on annual sales, replacement rate, and the average weight  
3.2 of carpet and must be approved by the agency;

3.3 (14) "retailer" means any person who sells or offers carpet for sale at retail in the state  
3.4 that generates sales tax revenue;

3.5 (15) "reuse" means donating or selling discarded carpet back into the market for its  
3.6 original intended use, when the carpet retains its original purpose and performance  
3.7 characteristics;

3.8 (16) "sale" or "sell" means the transfer of title of carpet for consideration, including:

3.9 (i) a remote sale conducted through a sales outlet, catalog, website, or similar electronic  
3.10 means; or

3.11 (ii) a lease through which carpet is provided to a consumer by a producer or retailer;

3.12 (17) "stewardship assessment" means the amount added to the purchase price of carpet  
3.13 sold in the state that is necessary to cover the cost of collecting, transporting, processing,  
3.14 and marketing discarded carpet by the stewardship organization operating under a product  
3.15 stewardship plan;

3.16 (18) "stewardship organization" means a single organization exempt from taxation under  
3.17 Section 501(c)(3) of the federal Internal Revenue Code of 1986 (United States Code, title  
3.18 21, section 501(c)(3)) that is established by producers in accordance with this section to  
3.19 develop, implement, and administer a product stewardship program under this section;

3.20 (19) "stewardship plan" means a detailed plan describing the manner in which a product  
3.21 stewardship program under subdivision 2 will be implemented; and

3.22 (20) "wool carpet" means carpet made from wool.

3.23 Subd. 2. **Product stewardship program.** A producer of carpet sold in the state must  
3.24 participate in the stewardship organization to implement and finance a statewide product  
3.25 stewardship program operated under an agency-approved product stewardship plan that  
3.26 manages carpet by reducing carpet's waste generation, promoting its reuse and recycling,  
3.27 and providing for negotiation and execution of agreements to collect, transport, and process  
3.28 carpet for recycling and reuse.

3.29 Subd. 3. **Requirement for sale.** On and after January 1, 2024, no producer, distributor,  
3.30 or retailer may sell carpet or offer carpet for sale in the state unless the carpet's producer  
3.31 participates in the product stewardship organization to implement and finance a statewide  
3.32 product stewardship program operated under a stewardship plan approved by the agency.

4.1 Subd. 4. Requirements for stewardship plan. (a) On or before January 1, 2023, initially  
4.2 and on or before each July 1 in a year when the stewardship plan is required to be updated  
4.3 under paragraph (b), the stewardship organization must submit a stewardship plan to the  
4.4 agency and receive agency approval of the plan. A stewardship plan must include all elements  
4.5 required under subdivision 5.

4.6 (b) At least every three years, the stewardship organization operating a product  
4.7 stewardship program must update the stewardship plan and submit the updated plan to the  
4.8 agency for review and approval.

4.9 (c) It is the responsibility of the stewardship organization to notify the agency within  
4.10 30 days of any significant changes or modifications to the plan or its implementation. Within  
4.11 30 days of the notification, a written plan revision must be submitted to the agency for  
4.12 review and approval.

4.13 (d) Upon agency approval of the stewardship plan, the stewardship organization must  
4.14 comply with and implement the contents of the approved plan.

4.15 Subd. 5. Stewardship plan content. The stewardship plan must contain:

4.16 (1) certification that the product stewardship program will accept all discarded carpet  
4.17 regardless of which producer produced the carpet and its individual components;

4.18 (2) contact information for the individual and the entity submitting the plan and for all  
4.19 producers participating in the product stewardship program;

4.20 (3) a description of the methods by which discarded carpet will be collected in all areas  
4.21 in the state without relying on end-of-life fees, including an explanation of how the collection  
4.22 system will be convenient and adequate to serve the needs of small businesses and residents.  
4.23 The stewardship program must include an operating collection site located in each county  
4.24 of the state by January 1, 2025. Subject to approval by the agency, the stewardship program  
4.25 may propose an alternative to a collection site location in each county that is convenient  
4.26 and adequate to collect discarded carpet generated in each county;

4.27 (4) a description of how the adequacy of the collection program will be monitored and  
4.28 maintained;

4.29 (5) the names and locations of collectors, transporters, and recycling facilities that will  
4.30 manage discarded carpet;

4.31 (6) a description of how the discarded carpet and the carpet's components will be safely  
4.32 and securely transported, tracked, and handled from collection through final recycling and  
4.33 processing;

5.1 (7) a description of the method that will be used to reuse, deconstruct, or recycle the  
5.2 discarded carpet to ensure that the product's components, to the extent feasible, are  
5.3 transformed or remanufactured into raw materials or finished products for use;

5.4 (8) a description of the promotion and outreach activities that will be used to encourage  
5.5 participation in the collection and recycling programs and how the activities' effectiveness  
5.6 will be evaluated and the program modified, if necessary;

5.7 (9) evidence of adequate insurance and financial assurance that may be required for  
5.8 collection, handling, and disposal operations;

5.9 (10) performance goals, including an estimate of the percentage of discarded carpet that  
5.10 will be collected, reused, recycled, and disposed during each of the three years of each  
5.11 stewardship plan. The program must achieve at a minimum, a 15 percent recycling rate in  
5.12 program year 2023 and must include and meet escalating performance goals for each  
5.13 subsequent year. The performance goals must be based on:

5.14 (i) the most recent collection data available for the state;

5.15 (ii) the amount of carpet disposed of annually;

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

5.17 (iv) actual collection data from other existing stewardship programs.

5.18 A stewardship plan must state the methodology used to determine these goals. The agency  
5.19 must review and may adjust the recycling rate and performance goals, based on information  
5.20 included in the stewardship plan and annual reports, other information provided by the  
5.21 stewardship organization, and economic and any other relevant information;

5.22 (11) a discussion of the status of statewide collection infrastructure, processor capacity,  
5.23 and end markets for discarded carpet and what, if any, additional statewide collection  
5.24 infrastructure, processor capacity, and end markets are needed to improve the functioning  
5.25 of the program and meet increasing performance goals;

5.26 (12) carpet design changes that will be considered to reduce toxicity, water use, or energy  
5.27 use or to increase recycled content, recyclability, or carpet longevity;

5.28 (13) a discussion of market development opportunities to expand the use of recovered  
5.29 carpet, with consideration of expanding processing activity near areas of collection;

5.30 (14) a financial plan that demonstrates sufficient funding to carry out the stewardship  
5.31 plan, including the administrative, operational, and capital costs of the plan, and payment

6.1 of incentive payments to carpet collectors, processors, and end use markets to assist with  
6.2 the implementation of this section;

6.3 (15) annual budgets showing revenue and expenditure projections for the current program  
6.4 year and for the next three years of the program;

6.5 (16) a process by which the financial activities of the stewardship organization related  
6.6 to the implementation of the plan are subject to an annual independent audit, which shall  
6.7 be reviewed by the agency;

6.8 (17) baseline information, for the most recent three-year period for which data is available,  
6.9 on the number of square feet and pounds of carpet sold in this state, by type of carpet pursuant  
6.10 to subdivision 1, clause (3);

6.11 (18) a discussion of the feasibility, cost, and effectiveness of labeling the backside of  
6.12 new carpet with the polymer type or nonpolymer material used to manufacture the carpet  
6.13 to assist processors in more easily identifying the type of discarded carpet collected for  
6.14 processing;

6.15 (19) a description of a mandatory program to train carpet installers on properly managing  
6.16 discarded carpet so that it can be reused or recycled under this section; and

6.17 (20) a summary of the consultation process that identifies the consulted stakeholders,  
6.18 the stakeholder comments raised in the consultation process, and the stewardship  
6.19 organization's responses to those comments as required under subdivision 7.

6.20 Subd. 6. **Stewardship assessment.** (a) On and after July 1, 2023, a producer must add  
6.21 a stewardship assessment fee of four cents per square foot to the purchase price of nylon  
6.22 carpet, polypropylene carpet, and wool carpet, and six cents per square foot to the purchase  
6.23 price of PET carpet, PTT carpet, blended carpet, and any other types of carpet sold by the  
6.24 producer in this state. The assessment added under this section must be remitted by the  
6.25 producer on a quarterly basis to the stewardship organization.

6.26 (b) The assessment must be added by the producer to the purchase price of all carpet  
6.27 sold by producers to a Minnesota retailer or distributor or otherwise sold for use in this  
6.28 state. The assessment must be clearly visible on all invoices or functionally equivalent  
6.29 billing documents as a separate line item and must be accompanied by a brief description  
6.30 of the assessment.

6.31 (c) If the amount of the assessment is too low to properly fund the stewardship program,  
6.32 the stewardship organization must submit a plan update to the agency to increase the

7.1 assessment, subject to agency review and approval in accordance with this section before  
7.2 the assessment is increased.

7.3 (d) On and after January 1, 2027, if a fund balance greater than one-half of the program's  
7.4 annual operating cost is reached, the stewardship organization must submit a plan update  
7.5 to the agency to reduce the assessment, subject to agency review and approval in accordance  
7.6 with this section before the assessment is reduced.

7.7 (e) The assessment fee must be deposited by the stewardship organization into a Federal  
7.8 Deposit Insurance Corporation (FDIC) insured financial institution, and, if for any reason  
7.9 this section is repealed, the entire assessment fund balance must be transferred by the  
7.10 stewardship organization to the state to be deposited into the environmental fund.

7.11 (f) A stewardship assessment must not be used to pay for any penalties assessed under  
7.12 this section or for the final disposal or incineration of discarded carpet.

7.13 Subd. 7. **Consultation required.** (a) The stewardship organization must consult with  
7.14 stakeholders, including retailers, installers, collectors, recyclers, local government, customers,  
7.15 and citizens, during development of the stewardship plan; solicit stakeholder comments;  
7.16 and incorporate stakeholder comments regarding the plan to the extent feasible before  
7.17 submitting a plan to the agency for review.

7.18 (b) The stewardship organization must invite comments from local governments,  
7.19 communities, and citizens to report their satisfaction with services, including education and  
7.20 outreach, provided by the product stewardship program. The information must be submitted  
7.21 to the agency and used by the agency in reviewing proposed updates or changes to the  
7.22 stewardship plan.

7.23 Subd. 8. **Agency review and approval.** (a) Within 90 days after receiving a proposed  
7.24 stewardship plan, the agency must determine whether the plan complies with subdivision  
7.25 5 and is sufficient to achieve the goals and requirements of this section. If the agency  
7.26 approves a plan, the agency must notify the applicant of the plan approval in writing. If the  
7.27 agency rejects a plan, the agency must notify the applicant in writing of the reasons for  
7.28 rejecting the plan. An applicant whose plan is rejected by the agency must submit a revised  
7.29 plan to the agency within 60 days after receiving notice of rejection.

7.30 (b) Any proposed changes to a stewardship plan must be approved by the agency in  
7.31 writing.

7.32 Subd. 9. **Plan availability.** All draft stewardship plans must be placed on the agency's  
7.33 website for at least 30 days before agency approval and made available at the agency's

8.1 headquarters for public review and comment. All approved stewardship plans must be placed  
8.2 on the agency's website while the plan is in effect.

8.3 Subd. 10. **Conduct authorized.** The stewardship organization that organizes collection,  
8.4 transport, and processing of carpet under this section is immune from liability for the conduct  
8.5 under state laws relating to antitrust, restraint of trade, unfair trade practices, and other  
8.6 regulation of trade or commerce only to the extent that the conduct is necessary to plan and  
8.7 implement the organization's chosen organized collection or recycling system.

8.8 Subd. 11. **Education materials.** (a) Producers of carpet or the stewardship organization  
8.9 must provide retailers, installers, and consumers with educational materials regarding the  
8.10 stewardship assessment and product stewardship program. The materials must include, but  
8.11 are not limited to, information regarding available end-of-life management options for carpet  
8.12 offered through the product stewardship program and information that notifies consumers  
8.13 that a charge for operating the product stewardship program is included in the purchase  
8.14 price of carpet sold in the state.

8.15 (b) Each distributor or retailer must provide the educational materials referenced in this  
8.16 subdivision to carpet installation contractors and consumers at the time of purchase or  
8.17 delivery or both.

8.18 Subd. 12. **Retailer and distributor responsibilities.** (a) On and after January 1, 2024,  
8.19 no carpet may be sold in the state unless the carpet's producer is participating in an approved  
8.20 stewardship plan.

8.21 (b) Any retailer or distributor may participate, on a voluntary basis, as a designated  
8.22 collection point pursuant to a product stewardship program under this section and in  
8.23 accordance with applicable law.

8.24 (c) No retailer or distributor shall be found to be in violation of this section if, on the  
8.25 date the carpet was ordered from the producer or its agent, the producer was listed as  
8.26 compliant on the agency's website, as provided in subdivision 15.

8.27 (d) Nothing in this section prohibits a retailer or distributor from selling their inventory  
8.28 of carpet existing prior to January 1, 2024.

8.29 Subd. 13. **Stewardship reports.** Beginning March 31, 2025, and each March 31  
8.30 thereafter, the stewardship organization must submit an annual report to the agency describing  
8.31 the product stewardship program. At a minimum, the report must contain:

8.32 (1) a description of the methods used to collect, transport, and process carpet in all  
8.33 regions of the state;



9.1 (2) the weight of all carpet collected in the seven-county metropolitan area and in the  
9.2 remainder of the state and a comparison to the performance goals, recycling rates, and  
9.3 collection infrastructure established in the stewardship plan and, if appropriate, an explanation  
9.4 stating the reason or reasons performance goals were not met;

9.5 (3) the amount of discarded carpet collected in the state by method of disposition,  
9.6 including reuse, recycling, and other methods of processing, including the amount collected  
9.7 but not reused or recycled, and its methods of ultimate disposition;

9.8 (4) identification of the facilities processing carpet and the weight processed by type of  
9.9 carpet listed in subdivision 1, clause (3), at each facility;

9.10 (5) an evaluation of the program's funding mechanism and budget for each program  
9.11 year, including a copy of the independent audit;

9.12 (6) samples of educational materials provided to consumers and an evaluation of the  
9.13 effectiveness of the materials and the methods used to disseminate the materials;

9.14 (7) a description of progress made toward achieving carpet design changes in order to  
9.15 achieve the goals listed in subdivision 5, clause (12);

9.16 (8) an assessment of how the stewardship organization is achieving the goals of this  
9.17 section and the goals established in the stewardship plan, including a discussion of each of  
9.18 the required elements of the stewardship plan under subdivision 5;

9.19 (9) data necessary to determine whether the amount of the stewardship assessment will  
9.20 be sufficient to achieve the goals of this section and the goals established in the stewardship  
9.21 plan and will properly fund the stewardship program; and

9.22 (10) other information that the agency may request for the purposes of determining  
9.23 compliance under this section.

9.24 Subd. 14. **Sales information.** Sales information provided to the commissioner under  
9.25 this section is classified as private or nonpublic data, as specified in section 115A.06,  
9.26 subdivision 13.

9.27 Subd. 15. **Agency responsibilities.** The agency must provide on its website a list of all  
9.28 compliant producers and brands participating in stewardship plans that the agency has  
9.29 approved and a list of all producers and brands the agency has identified as noncompliant  
9.30 with this section.

9.31 Subd. 16. **Local government responsibilities.** A city, county, or other public agency  
9.32 may voluntarily participate by serving as a designated collection point by providing education

10.1 and outreach, or by using other strategies to assist in meeting product stewardship program  
 10.2 recycling obligations. A city, county, or other public agency providing voluntary assistance  
 10.3 must be reimbursed for all of its expenses by the stewardship organization.

10.4 Subd. 17. **Administrative fee.** (a) The stewardship organization submitting a stewardship  
 10.5 plan must pay the agency an annual administrative fee. The agency must set the fee at an  
 10.6 amount that is adequate to cover the agency's full costs of administering and enforcing this  
 10.7 section.

10.8 (b) Fees collected under this subdivision are subject to section 16A.1285.

10.9 (c) The agency must identify the direct program development or regulatory costs it incurs  
 10.10 under this section before the first stewardship plan is submitted and must establish a fee in  
 10.11 an amount adequate to cover those costs, which must be paid by the stewardship organization.

10.12 (d) The stewardship organization must pay the agency's administrative fee under  
 10.13 paragraph (a) on or before July 1, 2023, and annually thereafter, and the agency's onetime  
 10.14 development fee under paragraph (c) on or before July 1, 2023. Each year after the initial  
 10.15 payment, and notwithstanding paragraph (b), the annual administrative fee may not exceed  
 10.16 five percent of the aggregate stewardship assessment collected under subdivision 6 for the  
 10.17 preceding calendar year.

10.18 Subd. 18. **Account created.** A carpet stewardship account is created as an account in  
 10.19 the special revenue fund. All fees collected by the agency from the stewardship organization  
 10.20 under this section must be deposited in the account. Any earnings from assets of the account  
 10.21 must be credited to the account. Money in the account is appropriated to the commissioner  
 10.22 for the purposes of this section.

10.23 Subd. 19. **Duty to provide information.** Any producer, distributor, retailer, stewardship  
 10.24 organization, or other person must furnish to the agency any information which that person  
 10.25 may have or may reasonably obtain that the agency requests for the purposes of determining  
 10.26 compliance under this section.

10.27 Sec. 2. Minnesota Statutes 2020, section 115A.142, is amended to read:

10.28 **115A.142 REPORT TO LEGISLATURE AND GOVERNOR.**

10.29 As part of the report required under section 115A.121, the commissioner of the Pollution  
 10.30 Control Agency ~~shall~~ must provide a report to the governor and the legislature on the  
 10.31 implementation of ~~section~~ sections 115A.141 and 115A.1415.