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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
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 recycling; establishing product stewardship program to promote recycling
1.3 of boat wrap; proposing coding 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.1416 BOAT WRAP; PRODUCT STEWARDSHIP PROGRAM.

1.6 Subdivision 1. Definitions. (a) For the purposes of this section, the terms in this
1.7 subdivision have the meanings given.

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

1.9 (c) "Boat wrap" means low-density polyethylene plastic that is used to wrap a boat to
1.10 protect it against moisture, scratches, and other potentially harmful elements during storage.

1.11 (d) "Producer" means a manufacturer of boat wrap.

1.12 Subd. 2. Product stewardship program. For boat wrap sold in or into this state, a
1.13 producer must, individually or through a stewardship organization, implement and finance
1.14 a statewide product stewardship program that reduces the volume of boat wrap disposed of
1.15 in landfills, promotes boat wrap recycling, and provides for negotiation and execution of
1.16 agreements to collect, transport, and process boat wrap for end-of-life recycling and reuse.

1.17 Subd. 3. Participation required to sell. (a) On and after July 1, 2024, or three months
1.18 after program plan approval, whichever is sooner, no producer, wholesaler, or retailer may
1.19 sell or offer for sale in or into this state boat wrap unless the boat wrap's producer participates
1.20 in an approved stewardship plan, either individually or through a stewardship organization.

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

2.4 Subd. 4. **Stewardship plan required.** (a) On or before March 1, 2024, and before  
2.5 offering boat wrap for sale in or into this state, a producer must:

2.6 (1) submit a stewardship plan that complies with subdivision 5 to the commissioner for  
2.7 approval and receive approval of the plan from the commissioner; or

2.8 (2) submit documentation to the commissioner that demonstrates that the producer has  
2.9 entered into an agreement with a stewardship organization to be an active participant in an  
2.10 approved product stewardship program as described in subdivision 2.

2.11 (b) It is the responsibility of the entities responsible for each stewardship plan to notify  
2.12 the commissioner of any proposed changes or modifications to the plan or its implementation.  
2.13 A written plan revision must be submitted to the commissioner for review and may not be  
2.14 implemented without written approval from the commissioner.

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

2.16 (1) certification that the product stewardship program will accept all discarded boat wrap  
2.17 regardless of which producer produced the boat wrap and its individual components;

2.18 (2) contact information for the individual and the entity submitting the plan, a list of all  
2.19 producers participating in the product stewardship program, and the brands covered by the  
2.20 product stewardship program;

2.21 (3) a description of the methods by which the boat wrap will be collected in all areas in  
2.22 the state without relying on end-of-life fees, including:

2.23 (i) an explanation of how the collection system will be convenient and adequate to serve  
2.24 the needs of boat owners, marinas, and boat storage businesses in both urban and rural areas  
2.25 on an ongoing basis; and

2.26 (ii) a discussion of how existing sites for collecting materials for recycling will be  
2.27 considered when selecting collection sites;

2.28 (4) a description of how the adequacy of the collection program will be measured,  
2.29 monitored, and maintained;

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

3.1 (6) a description of how the discarded boat wrap and the boat wrap's components will  
3.2 be safely and securely transported, tracked, and handled from collection through final  
3.3 recycling and processing;

3.4 (7) a description of the method that will be used to reuse, deconstruct, or recycle the  
3.5 discarded boat wrap to ensure that the boat wrap's components, to the extent feasible, are  
3.6 transformed or remanufactured into finished products for use or into new materials capable  
3.7 of being processed into finished products;

3.8 (8) a description of the promotion and outreach activities that will be undertaken to  
3.9 encourage participation in the collection and recycling programs and how the activities'  
3.10 effectiveness will be evaluated and the program modified, if necessary;

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

3.13 (10) five-year performance goals, including an estimate of the percentage of discarded  
3.14 boat wrap that will be collected, reused, and recycled during each of the first five years of  
3.15 the stewardship plan. The stewardship plan must state the methodology used to determine  
3.16 these goals. The performance goals must include a specific goal for the amount of discarded  
3.17 boat wrap that will be collected and recycled during each year of the plan. The performance  
3.18 goals must be based on:

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

3.20 (ii) the estimated amount of boat wrap disposed of annually;

3.21 (iii) the weight of the boat wrap that is expected to be available for collection annually;

3.22 and

3.23 (iv) actual collection data from other existing boat wrap recycling or stewardship  
3.24 programs; and

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

3.27 Subd. 6. **Consultation required.** Each stewardship organization or individual producer  
3.28 submitting a stewardship plan must consult with stakeholders, including boat owners, owners  
3.29 of marinas and boat storage businesses, contractors, collectors, recyclers, and local  
3.30 government, during the development of a stewardship plan.

3.31 Subd. 7. **Agency review and approval.** Within 90 days after receiving a proposed  
3.32 stewardship plan, the commissioner must determine whether the plan complies with

4.1 subdivision 5. If the commissioner approves a plan, the commissioner must notify the  
4.2 applicant of the plan approval in writing. If the commissioner rejects a plan, the commissioner  
4.3 must notify the applicant in writing of the reasons for rejecting the plan. An applicant whose  
4.4 plan is rejected by the commissioner must submit a revised plan to the commissioner within  
4.5 60 days after receiving notice of rejection.

4.6 Subd. 8. **Plan availability.** The commissioner must make a draft stewardship plan  
4.7 available on the agency website and at the agency headquarters for public review and  
4.8 comment at least 30 days before the commissioner's decision regarding plan approval. The  
4.9 commissioner must make an approved stewardship plan available on the agency website  
4.10 and at the agency headquarters.

4.11 Subd. 9. **Conduct authorized.** A producer or stewardship organization that organizes  
4.12 collection, transport, and processing of boat wrap under this section is immune from liability  
4.13 for the conduct under state laws relating to antitrust, restraint of trade, unfair trade practices,  
4.14 and other regulation of trade or commerce only to the extent that the conduct is necessary  
4.15 to plan and implement the producer's or organization's chosen organized collection or  
4.16 recycling system.

4.17 Subd. 10. **Producer responsibilities.** Producers of boat wrap or the stewardship  
4.18 organization must provide consumers with educational materials regarding the product  
4.19 stewardship program. The materials must include but are not limited to information regarding  
4.20 available end-of-life management options for boat wrap offered through the product  
4.21 stewardship program.

4.22 Subd. 11. **Recycler responsibilities.** (a) No recycler or downstream recycler who receives  
4.23 boat wrap collected under a stewardship plan approved under this section may use the boat  
4.24 wrap as a feedstock to produce transportation fuels.

4.25 (b) For the purposes of this subdivision, "downstream recycler" means a recycler other  
4.26 than the recycler to whom a collector initially sends boat wrap under a stewardship plan  
4.27 approved under this subdivision.

4.28 Subd. 12. **Retailer responsibilities.** (a) On and after July 1, 2024, or three months after  
4.29 stewardship plan approval, whichever is sooner, no boat wrap may be sold in or into the  
4.30 state unless the boat wrap's producer is participating in a stewardship plan approved by the  
4.31 commissioner under this section.

4.32 (b) A retailer is responsible for reviewing the list of compliant producers on the agency  
4.33 website under subdivision 13 to determine whether a producer is compliant with this section.

5.1 (c) A retailer may elect to participate as a designated collection point as part of a product  
5.2 stewardship program approved under this section and in accordance with applicable law.

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

5.6 Subd. 13. **Agency responsibilities.** The commissioner must maintain on the agency  
5.7 website a list of all compliant producers and brands participating in stewardship plans that  
5.8 the commissioner has approved and a list of all producers and brands the commissioner has  
5.9 identified as noncompliant with this section.

5.10 Subd. 14. **Stewardship reports.** Beginning October 1, 2025, producers of boat wrap  
5.11 sold in or into the state must individually or through a stewardship organization submit an  
5.12 annual report to the commissioner describing the product stewardship program. At a  
5.13 minimum, the report must contain:

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

5.16 (2) the weight of all boat wrap collected in all regions of the state and a comparison to  
5.17 the performance goals and recycling rates established in the stewardship plan;

5.18 (3) the amount of unwanted boat wrap collected in the state by method of disposition,  
5.19 including reuse, recycling, and other methods of processing;

5.20 (4) samples of educational materials provided to consumers and an evaluation of the  
5.21 effectiveness of the materials and the methods used to disseminate the materials; and

5.22 (5) an independent financial audit of stewardship organization activities.

5.23 Subd. 15. **Data classification.** Trade secret and sales information, as defined under  
5.24 section 13.37, submitted to the commissioner under this section are private or nonpublic  
5.25 data under section 13.37.

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