SENATE DOCKET, NO. 1773 FILED ON: 1/16/2025

SENATE . . . . . No. 570

The Commonwealth of Massachusetts

PRESENTED BY:

Sal N. DiDomenico

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act establishing a waste reduction needs assessment in the commonwealth.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
Sal N. DiDomenico	*Middlesex and Suffolk*	
Dylan A. Fernandes	*Plymouth and Barnstable*	*2/4/2025*

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SENATE . . . . . No. 570

By Mr. DiDomenico, a petition (accompanied by bill, Senate, No. 570) of Sal N. DiDomenico and Dylan A. Fernandes for legislation to establish a waste reduction needs assessment in the commonwealth. Environment and Natural Resources.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Fourth General Court
(2025-2026)

An Act establishing a waste reduction needs assessment in the commonwealth.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Sec. 1 Definitions.

In this Act:

"Committee", the Statewide Recycling Needs Assessment Advisory Committee

"Compost", a process of accelerated biodegradation of organic materials using microorganisms under controlled conditions in the presence of oxygen using windrows or piles.

"Compostable material", a covered material that is capable of undergoing aerobic biological decomposition in a controlled composting system, meets ASTM D6400, ASTM D6868, or any successor standards, and is accepted at composting facilities in the State.

“Composting facility”, a property on which composting activities take place and which is subject to 310 CMR 16.03, 16.04 or 16.05.

11 "Commissioner", the Commissioner of the Department.

12 “Convenience”, access to collection for recycling available wherever access to trash
13 disposal is provided.

14 “Covered entities”, residences, schools, municipal buildings, public spaces, small
15 businesses, and hospitality locations.

16 "Covered materials”, any packaging material or paper products, regardless of
17 recyclability, reusability or compostability, that are sold, offered for sale, or distributed to
18 consumers in the State, including through an internet transaction.

19 “Covered material category”, the categories of covered materials as defined by the
20 Department pursuant to Section 3 (b).

21 “Department”, the Department of Environmental Protection.

22 “Environmental justice community", a municipality in which:

23 a) the annual median household income is 65 percent or less of the statewide annual
24 median household income;

25 b) minorities make up 40 percent or more of the population;

26 c) 25 percent or more of households identify as speaking English less than "very well";
27 and/or

28 d) minorities make up 25 percent or more of the population and the annual median
29 household income of the municipality in which the neighborhood is located does not exceed 150
30 percent of the statewide annual median household income.

31 "Hauler" a person who collects trash, recyclable or compostable materials and transports
32 them to a materials management facility, or to an intermediate facility from which materials are
33 then transported to a materials management facility.

34 “Hospitality location”, a place that provides food and beverage service, overnight guest
35 accommodation, entertainment or recreation.

36 "Material recovery facility" or "MRF", a facility that receives, processes, and sells or
37 otherwise distributes post-consumer materials for recycling.

38 “Materials management”, recycling, composting, deposit redemption, litter prevention
39 and abatement, and reuse infrastructure for covered materials.

40 “Municipal solid waste” or “MSW”, any residential or commercial solid waste sent for
41 disposal, as defined in 310 CMR 19.006.

42 “Municipality”, a city, town, or regional association acting on behalf of a city or town.

43 “Needs assessment”, or “NA”, a statewide evaluation of the amount and types of covered
44 materials managed through materials management, landfilling or incineration and the associated
45 costs and revenues, level of access, and infrastructure capacity for each end-of-life management
46 pathway. The NA also includes evaluation of future needs and associated costs and
47 recommendations for how to achieve the State’s waste reduction goals.

48 "Nondisclosure agreement", an agreement that requires the parties to the agreement to
49 treat the data or information provided to complete the statewide needs assessment as
50 confidential, commercial, or financial information that may not be disclosed to any party, person,
51 or entity, except as provided by this Act.

52 "Packaging", a material or set of materials that are:

53 (a) used to protect, contain, transport, dispense or serve a solid, liquid, or gaseous
54 product;

55 (b) sold or supplied to consumers expressly for the purpose of protecting, containing,
56 transporting, or serving products;

57 (c) attached to a product or its container for the purpose of marketing or communicating
58 information about the product or

59 (d) supplied at the point of sale to facilitate the delivery of the product.

60 "Packaging" does not include:

61 (a) a medical device or packaging that is included with products regulated as a drug,
62 medical device, or dietary supplement by the United States Food and Drug Administration under
63 the Federal Food, Drug, and Cosmetic Act; as a combination product as defined under 21 CFR
64 3.2(e); or under the federal Dietary Supplement Health and Education Act of 1994;

65 (b) animal biologics, including, but not limited to, vaccines, bacterins, antisera,
66 diagnostic kits, other products of biological origin, and other packaging and paper products
67 regulated by the United States Department of Agriculture under the Federal Virus, Serum, Toxin
68 Act;

69 (c) packaging regulated under the Federal Insecticide, Fungicide, and Rodenticide Act or
70 another applicable federal law, rule, or regulation; or

71 (d) a discrete type of material, or a category of material that includes multiple discrete
72 types of material, intended to be used for the long-term storage or protection of a durable product
73 and that can be expected to be usable for that purpose for a period of at least three years.

74 (e) a durable product that can be expected to be usable for a period of at least three years.

75 "Packaging material", any part of a package or container.

76 "Paper product", paper that can or has been printed on to create flyers, brochures,
77 booklets, catalogs, greeting cards, newspapers, magazines; and paper used for copying, writing,
78 or any other general use.

79 “Paper product” does not include any literary, text, reference, or other bound book.

80 "Person", any individual, partnership, co-partnership, firm, company, limited liability
81 company, corporation, association, joint-stock company, trust, estate, political subdivision, State
82 agency, any other legal entity, or their legal representative, agent, or assign.

83 "Post-consumer material", covered materials that have served their intended end use as
84 consumer items. "Postconsumer material" does not include a by-product or waste material
85 generated during or after the completion of a manufacturing or converting process.

86 "Post-consumer recycled content", the portion of an item of packaging or paper product
87 made from post-consumer material that has been recycled.

88 “Public spaces”, outdoor areas accessible to the general public owned or operated by
89 local, regional, county, state, or federal governments.

90 "Recycling", to separate, dismantle or process the materials or components in covered
91 materials for the purpose of preparing the materials for use or reuse in new products or
92 components.

93 Recycling does not include energy recovery or energy generation by means of
94 combustion; pyrolysis, gasification, and any other high-heat chemical conversion processes; or
95 landfill disposal of discarded covered material or discarded product component materials; or the
96 residue resulting from the processing of packaging or paper products at an MRF, use as
97 alternative daily cover, or any other beneficial use at a landfill.

98 “Recovery rate”, the percentage of packaging and paper products returned to the
99 marketplace in the form of raw materials or products rather than being disposed of or discarded.
100 The recovery rate is calculated by dividing the total weight of packaging and paper products that
101 are ultimately processed into feedstock for new products by the total weight of packaging and
102 paper products sold, distributed, or served to consumers in the State during the study period, not
103 including the residue that is landfilled after processing by a MRF and subsequent preparation for
104 use as feedstock.

105 "Recycling rate", the percentage of packaging and paper products collected from
106 generators in the recycling stream and delivered to a MRF, as determined by inbound material
107 composition audits, rather than being disposed of or discarded. The recycling rate is calculated
108 by dividing the total weight of each covered material category that is collected for recycling by
109 the total weight of each covered material sold, distributed, or served to consumers in the State
110 during the study period, not including the residue that is landfilled after processing by a MRF.

111 “Residential”, of a place where residents live, stay, or are cared for over a period of more
112 than two full days and nights, including but not limited to single and multi-family homes,
113 apartments, condominiums, congregate housing, public housing, mobile home parks,
114 dormitories, assisted living residences, nursing homes, hospitals, camps, and hotels/inns/motels.

115 "Reusable", packaging which is designed to be recirculated multiple times for the same or
116 similar purpose in its original format in a system for reuse, and is owned by producers or a third
117 party and returned to producers or a third party after each use.

118 "Reuse", the return of packaging to the economic stream for use in the same kind of
119 application intended for the original packaging without effectuating a change in the original
120 composition of the package, the identity of the product, or the components thereof.

121 “Reuse rate”, the number of times a package is reused before being disposed of or
122 recycled.

123 “School”, a public, private, or charter school, including pre-schools, K-12 schools,
124 colleges, and universities.

125 “Small business”, a business that utilizes less than 1- 40 cubic yard dumpster or
126 equivalent per week for its combined waste and recycling.

127 “Solid Waste Master Plan” or “SWMP”, the most recent comprehensive statewide master
128 plan produced by the Department for reducing and managing solid waste, as required by MGL
129 Chapter 16, Section 21.

130 "Study period", the period represented by the data compiled and analyzed in the
131 completion of the Statewide Recycling Needs Assessment. The study period shall be a minimum

132 of a one-year calendar period not earlier than 2024 and shall be clearly defined in the scope of
133 work. If more than one year of data is used, data shall be presented on an annual basis.

134 "Toxic substance", with respect to covered material, a chemical or chemical class
135 identified by a State agency, federal agency, international intergovernmental agency, accredited
136 research university, or other scientific evidence deemed authoritative by the Department on the
137 basis of credible scientific evidence as being one or more of the following:

138 (a) is a carcinogen, mutagen, reproductive toxicant, immunotoxicant, neurotoxicant,
139 and/or endocrine disruptor.

140 (b) is persistent or bioaccumulative.

141 (c) may harm the normal development of a fetus or child or cause other developmental
142 toxicity in humans or wildlife.

143 (d) may harm organs or cause other systemic toxicity.

144 (e) may have adverse air quality impacts, adverse ecological impacts, adverse soil quality
145 impacts, or adverse water quality impacts.

146 (f) the Department has determined that it has equivalent toxicity to the above criteria.

147 Sec. 2. Statewide Recycling Needs Assessment Advisory Committee.

148 (a) On or before January 1, 2026, the Commissioner shall appoint members to the
149 Committee to provide advice and recommendations to the Department in the drafting, revising,
150 and finalizing of the Statewide Recycling Needs Assessment.

151 (b) In appointing members to the Committee under subsection (A), the Commissioner
152 shall consider representatives from all geographic regions of the State, all sizes of communities
153 in the State, all supply chain participants in the recycling system, and the racial and gender
154 diversity of this State.

155 (c) Members of the Committee shall include the following voting members: the
156 commissioner or designee; and one individual each representing:

157 material recovery facilities in the state;

158 a publicly traded hauler;

159 a privately owned hauler;

160 compost collection and processing facilities;

161 a solid waste manager in (a) urban community(ies);

162 a solid waste manager in (a) suburban community(ies);

163 a solid waste manager in (a) rural community(ies);

164 a solid waste manager at a college or university;

165 a solid waste manager at a health care facility;

166 a solid waste manager at an entertainment venue;

167 retailers or small businesses;

168 a statewide environmental organization;

169 a statewide public health organization;

170 a statewide association of sustainable materials managers;

171 packaging manufacturers;

172 producers of consumer products;

173 freshwater and marine litter programs;

174 an environmental justice organization.

175 (d) An individual may be appointed to only one position on the Committee. Upon
176 completion of the duties of the Committee, appointments to the Committee shall be terminated
177 and the Committee shall be dissolved.

178 (e) The duties of the Committee are as follows:

179 (1) to provide guidance on the scope of work for the Statewide Needs Assessment
180 required under Section 3;

181 (2) to assist in the provision of data and information required to complete the NA;

182 (3) to review and comment on the NA prior to completion;

183 (4) to review packaging and paper products legislation enacted in other states, including
184 identifying the main components of the legislation, its implementation steps, and its
185 implementation status; and

186 (5) on or before December 1, 2027, evaluate and make recommendations to the General
187 Assembly and the Governor, which may include an opportunity for a minority report. This shall

188 include legislative recommendations on how to effectively establish and implement a producer
189 responsibility program in the State for covered materials, including recommendations regarding
190 the responsibilities of producers under a producer responsibility program, and how the program
191 would function with the State's deposit redemption system.

192 (f) The Committee:

193 (1) shall elect a Chair from among Committee members by a simple majority vote;

194 (2) shall meet at the call of the Chair, except for the first meeting, which shall be called
195 by the Commissioner;

196 (3) shall meet at least quarterly or as determined by the Committee Chair;

197 (4) may adopt bylaws and a charter for the operation of its business for the purposes of
198 this Act; and

199 (5) shall be provided administrative support by the Department and Department staff.

200 (g) The Department may select and hire a third-party facilitator for the Committee.

201 Sec. 3. Statewide Needs Assessment.

202 (a) The Department shall issue a competitive solicitation in accordance with Chapter 30B
203 of the general laws to select a qualified consultant to conduct a statewide Needs Assessment to
204 assess consumption, materials management quantities, infrastructure and market conditions in
205 the State for managing covered materials. This shall include identifying current capacity, costs,
206 gaps, and needs associated with the diversion of covered materials from MSW to achieve the
207 goals of the Department's 2030 Solid Waste Master Plan, and to achieve full compliance with

208 the Massachusetts Disposal Bans as stated in 310 CMR 19.017 for covered materials. Its findings
209 shall inform a separately enacted Producer Responsibility Plan and Program for packaging and
210 printed paper.

211 The Department shall select the consultant within 120 days of enactment of this Act. The
212 competitive solicitation issued by the Department and the contract, including any contract
213 modification or extension, executed by the consultant and the Department must provide that the
214 data or information received by the consultant and the Department must be used exclusively to
215 complete the statewide Needs Assessment and for no other purposes. The NA shall be funded by
216 an appropriation to the Department's Sustainable Materials Recovery Program Expendable Trust.

217 (b) The Department shall establish categories and definitions for covered material types
218 to be evaluated in the Needs Assessment.

219 (c) The Needs Assessment shall address, at a minimum, the following factors for covered
220 entities:

221 (1) the quantity, by weight and category, of covered materials;

222 (2) current collection systems for covered materials by and for covered entities in the
223 State, including curbside collection, carts, transfer station drop-off and dumpster services;

224 (3) current materials management systems for collected covered materials, including
225 disposal;

226 (4) the quantity, by weight, of municipal solid waste by covered material category
227 collected for disposal in each Departmental region;

228 (5) the processing capacity and infrastructure for reusable, recyclable, compostable, and
229 redeemable covered materials collected in the State, including capacity and infrastructure outside
230 the State which serves or may serve the State;

231 (6) current reuse, recycling, and recovery rates for covered materials in the State by
232 material category;

233 (7) current post-consumer recycled content use by material type for all covered materials
234 sold in the State;

235 (8) current reusability, recyclability, or compostability of covered materials, by material
236 type;

237 (9) current costs incurred by each type of covered entity for collection, materials
238 management, and disposal;

239 (10) evaluation of the cost and operational impact of non-reusable, non-recyclable, and
240 non-compostable covered materials on the material management systems;

241 (11) current operational and capital funding sources and limitations impacting materials
242 management system access and availability throughout the State;

243 (12) collection and materials management system need to provide convenient access for
244 all covered entities, with needs identified on a region-by-region basis for all five Departmental
245 regions;

246 (13) program costs and capital investments required to achieve the waste reduction goals
247 set by the department, consistent with material-specific Solid Waste Master Plan goals, by
248 December 31, 2030, and the prorated 2050 goal by 2035 for covered materials, including

249 investment into existing and future collection and materials management infrastructure for
250 covered materials, and incentivization for packaging reduction and redesign;

251 (14) the market conditions and opportunities for reusable, recyclable, and compostable
252 covered materials in the State and regionally;

253 (15) multilingual public education needs to achieve the maximum proper use of materials
254 management systems, including, but not limited to, a scientific survey of current awareness
255 among residents of proper end-of-life management for covered materials and the needs
256 associated with the reduction of contamination rates at MRFs which receive covered materials;

257 (16) an evaluation of sources, material types, volumes, and flows of roadside and public
258 space litter, and program and infrastructure needs for its abatement and prevention;

259 (17) an assessment of environmental justice and equity in the State relating to materials
260 management, including, but not limited to:

261 (i) an evaluation of current access to and the performance of curbside and drop-off
262 recycling and compost programs and reuse services in jurisdictions designated as environmental
263 justice areas as compared with other areas;

264 (ii) an evaluation of current access to and the performance of curbside and drop-off
265 recycling and compost programs and reuse services in dwellings with four or more units
266 throughout the State;

267 (iii) a comparison of the location of MRFs and compost facilities in units of local
268 government that have been designated as environmental justice areas with units of local
269 government that are not so designated, including analysis of the degree to which residents and

270 workers in environmental justice areas are impacted by emissions, toxic substances, and other
271 pollutants from solid waste facilities and recommendations to mitigate those impact;

272 (iv) An evaluation of material management facility worker conditions, wages and
273 benefits;

274 (v) the availability of opportunities in materials management systems for women and
275 minority individuals; and

276 (vi) recommendations for improving equity and equitable outcomes for underserved
277 populations in Massachusetts' materials management system.

278 (18) an estimate of cost impacts of the enactment of proposed or enacted producer
279 responsibility legislation to producers, consumers, municipalities, and waste service subscribers
280 in the first five years.

281 (19) an estimate of the maximum reduction, recycling, recovery, and reuse rate potential
282 for each covered material category by 2030, 2035, 2040, and 2050, to inform both ambitious and
283 realistic goals in a producer responsibility program.

284 (20) an estimate of current lifecycle greenhouse gas emissions related to covered
285 materials, and of maximum potential greenhouse gas emission reductions related to the findings
286 in (19).

287 (21) an assessment of strategies to integrate source reduction and reuse into a producer
288 responsibility program based on best practices implemented by other governmental bodies,
289 including but not limited to:

290 (i) how recycling infrastructure is used to manage reusable packaging material in other
291 jurisdictions and provide examples of investment proposals that would allow reusable packaging
292 material to be managed through material management systems in the State.

293 (ii) the performance of existing waste reduction and reuse efforts for covered materials,
294 as applicable, including collection, recovery, reuse, and return rates, and determine the
295 infrastructure and investments that would be necessary to increase these rates by amounts
296 specified by the department within five years;

297 (iii) the feasibility of achieving goals of 5% returnable reusable beverage containers sold
298 in the State by 2030, by 2040, and by 2050 and 10% returnable reusable beverage containers sold
299 in the State by 2030, by 2040, and by 2050 and the infrastructure and investments that would be
300 necessary to support those goals.

301 (22) an assessment of the prevalence of toxics in covered materials by category, and their
302 impacts on materials management costs, rates, operations and the environment.

303 (23) recommend best practices to follow from successful producer responsibility
304 programs for covered materials implemented by other government bodies.

305 (24) any other items deemed relevant by the Department or the Advisory Committee to
306 make recommendations for product stewardship legislation.

307 (d) Persons with data or information required to complete the statewide Needs
308 Assessment shall provide an independent entity selected by the Department with such data or
309 information in a timely fashion to assist in completing the statewide NA. The independent entity
310 must be a CPA firm, as defined at section 87B1/2 of chapter 112 of the general laws. The

311 independent entity shall enter into a nondisclosure agreement with each person who provides
312 data or information required to complete the statewide NA. The independent entity shall
313 aggregate the data or information received from all parties using, to the extent practicable, the
314 factors enumerated in subsection (c) and transmit the data or information to the consultant and
315 the Department in a manner that does not identify the party who provided specific data or
316 information. The data or information received by the independent entity may not be used for any
317 other purpose. No person shall be required to provide data or information related to the statewide
318 NA until the person has received a nondisclosure agreement executed by the independent entity.
319 Any person aggrieved by a violation of the terms and conditions of a nondisclosure agreement
320 may institute a civil action to recover damages.

321 (e) Within twelve (12) months of contract award to the consultant, the Department shall
322 provide the draft Needs Assessment to the Committee. The Committee shall provide written
323 comments to the Department within 60 days of receipt of the NA. The Department's consultant
324 shall include an assessment of comments received in the revised draft NA submitted to the
325 Department and shall provide a summary and an analysis of any issues raised by the Committee
326 and significant changes suggested by any such comments, a statement of the reasons why any
327 significant changes were not incorporated into the results of the study, and a description of any
328 changes made to the results of the NA as a result of such comments. The NA shall be finalized
329 by the Department within 60 days of receipt of comments by the Committee, and submitted to
330 the Joint Committee on Environment and Natural Resources for legislative action.

331 Sec. 4. Severability. The provisions of this Act shall be severable and if any phrase,
332 clause, sentence, or provision of this Act or the applicability thereof to any person or

333 circumstance shall be held invalid, the remainder of this Act and the application thereof shall not

334 be affected thereby.

335 Sec. 5. Effective date. This Act takes effect upon becoming law.