



Part 1: PPEC Analysis of Bill 151

Ontario's Bill 151: What it seems to mean for the paper packaging industry

A non-legal reading of Ontario's Bill 151 Waste-Free Ontario Act 2015 appears to mean the following:

1. **Everyone has to "have regard" for the "provincial interest."**

This is defined as Ontario having a system of resource recovery and waste reduction that aims to:

- Minimize greenhouse gas emissions resulting from resource recovery and waste reduction activities
- Minimize the generation of waste including waste from products and packaging
- Increase the durability, reusability and recyclability of products and packaging
- Hold persons who are most responsible for the design of products and packaging responsible for the products and packaging at the end of life
- Decrease hazardous and toxic substances in products and packaging
- Minimize the need for waste disposal
- Minimize the environmental impacts that result from resource recovery and waste reduction activities including from waste disposal
- Provide efficient effective convenient and reliable services related to resource recovery and waste reduction, including waste management services
- Increase the reuse and recycling of waste across all sectors of the economy
- Increase opportunities and markets for recovered resources
- Promote public education and awareness with respect to resource recovery and waste reduction
- Promote cooperation and coordination among various persons and entities involved in resource recovery and waste reduction activities
- Promote competition in the provision of resource recovery services and waste reduction services
- Foster fairness for consumers
- Do any other related thing that may be prescribed.

Reference clause 10 (1)



2. Everyone, it seems, also has to **act consistently with “policy statements”** that the minister develops to further the provincial interests mentioned above. The Minister is to consult widely on these, make them public, and has the power to amend them. There is a 10-year review period. **(No examples of policy statement are given in the Act but in discussions with ministry staff they include things like criteria for accessible and convenient recycling services; guidance for collection, reuse and recycling; and principles for sustainable packaging).**

Reference clause 12 (1)

3. The Act creates a Resource Productivity and Recovery Authority (RPRA), which includes an electronic public registry to receive information (data) on resource recovery and waste reduction. **Do material suppliers have to register with the Authority? There is some ambiguity here.**

Certainly brand holders have to register for their product and its primary packaging. This means “material used for the containment, protection, handling, delivery and presentation of a product that is provided to a consumer at the point of sale ... but does not include convenience packaging or transport packaging.”

Reference Section 61 (1) and 59

However, “A person with a commercial connection to a product in a designated class may be required to carry out responsibilities instead of, or in addition to a brand holder.” 61 (2). A person who has a commercial connection to a product in a designated class “includes a person who imports, wholesales, leases or retails the product, or is otherwise involved in the product’s distribution.” It includes persons who “market a product to a consumer in Ontario, including through the internet, using a catalogue order system, using a telephone order system or by a similar remote sales method.”

Reference 61 (3 to 5).

Do those who supply Convenience and Transport Packaging have to register?

Convenience Packaging is defined as “material used in addition to primary packaging to facilitate consumers’ handling or transportation of one or more products, such as boxes and bags.” (59)

Transport Packaging is defined as “material used in addition to primary packaging to facilitate the handling or transportation of one or more products by persons other than consumers, such as pallets, bail wrap and boxes, but does not include shipping containers designed for transporting things by road, ship, rail or air.” (59)



A person may be required by regulation to register with respect to convenience or transport packaging (a) if the person is a brand holder of a product that is or was contained in, on, or under the packaging (b) in the case of convenience packaging, **the person supplies convenience packaging in the designated class to a consumer in Ontario** (c) in the case of transport packaging, **the person first uses transport packaging** in the class in the handling or transportation of a product marketed to a consumer in Ontario, if the final destination of the packaging is in Ontario.”

Reference 62 (1)

There is also a catch-all *clause 64* that persons not described elsewhere but who **perform an activity that relates to resource recovery or waste reduction in Ontario** may be required to carry out responsibilities such as registering, promotion and education, reporting and record-keeping.

4. Responsibility to Reduce Waste

Setting aside whether material suppliers have to register with the authority or not, another regulation may provide that **those same players noted above have a responsibility to reduce waste generated.** A person shall not be prescribed as being responsible unless (i) the person is a brand holder of a product in a designated class, or (ii) supplies convenience or transport packaging that displays a brand the person holds. (This could mean that as long as the materials supplier doesn't hold the brand he/she does not have the responsibility.

Reference cl. 67

5. Design of Product and Packaging

A regulation may require that **a person with waste reduction responsibility** (see above) ... “take steps to design material so as to: (a) increase the material's reusability and recyclability (b) reduce or eliminate any impact the material may have on the recyclability of other materials in the class (c) reduce the amount of waste generated at the end of the product's or packaging's life (d) reduce or eliminate the use of any substance in the material, or increase the use of recovered resources in the making of the material.”

Reference 67 (3)

6. Responsibility for Collection System

A regulation may provide that a person mentioned in clauses 61/62 (brand holder, person with commercial connection, a supplier of convenience or transport packaging) **is responsible for establishing and operating a collection system for prescribed materials.** This must collect prescribed materials, must collect the person's own products and the packaging associated with the person's



own product, collect any products and packaging in the designated class, must ensure that the collection system is operated for the prescribed period of time, in accordance with the prescribed requirements, in the prescribed quantities etc. *Reference 68 (2)*

Significantly, that person must not “impose a charge at the time of the collection.” (i.e. an eco-fee) *Reference 68 (3).*

7. Responsibility to Manage Collected Material

A regulation may provide that a person mentioned in 61/62 (brand holder, person with commercial connection, supplier of convenience or transport packaging, and who is prescribed for collecting material), also be **responsible for establishing and operating a system for managing the material collected** (handle, reuse, recycle, recover resources from, and dispose of), allow the material to be reused for a purpose that is the same as or similar to its original purpose, used in the making of new products, packaging or other things, or used as a nutrient for improving the quality of soil, agriculture or landscaping. *Reference 69 (1-3)*

8. Responsibility for Promotion and Education

A regulation may provide that a person noted in 61/62 (brand holder, person with commercial connection, convenience or transport packaging supplier) is **responsible for implementing a promotion and education program** (*Reference 70 (1)*). A regulation may (also) provide that persons performing an activity that relates to resource recovery or waste reduction other than the above are responsible for implementing a promotion and education program. *Reference 70 (2)*

9. Responsibility to Keep Records and Report

A regulation may require those who have responsibilities under sections 67, 68, 69, or 70 (to reduce waste, for collection system, to manage collected material, for promotion and education) **to create, maintain, and store documents and data and to submit them to the Authority.** *Reference 72 (1)*

A regulation may require a person performing an activity that relates to resource recovery or waste reduction **other than prescribed above** to do the same. *Reference 72 (2)*

A regulation may require such persons to provide an audit. *Reference 72 (3)*



10. **Offences**

First conviction (*for an individual*) of not more than \$50,000 for each day or part of day on which the offence occurs or continues. In the case of a subsequent conviction (not more than \$100,000 for each day etc.) *For a corporation*, \$250,000 in the case of a first conviction for each day or part of a day on which the offence occurs or continues. In case of subsequent conviction, not more than \$500,000 per day etc. from when offence occurs or continues. *Reference 98 (7 and 8)*

11. **Regulations**

The Lieutenant Governor may make regulations. May be time limited, place limited (e.g. geographic), may adopt a reference or code, standards or protocols (for example, Standards Association definition of recycling rates etc.), also types of packaging (e.g. convenience, transport). *References 103 (1-3)*