

118TH CONGRESS
1ST SESSION

S. _____

To amend the Internal Revenue Code of 1986 to establish an excise tax on plastics.

IN THE SENATE OF THE UNITED STATES

Mr. WHITEHOUSE (for himself, Mr. WYDEN, Mr. VAN HOLLEN, and Mr. MENENDEZ) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Internal Revenue Code of 1986 to establish an excise tax on plastics.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Rewarding Efforts to
5 Decrease Unrecycled Contaminants in Ecosystems Act of
6 2023” or the “REDUCE Act of 2023”.

7 **SEC. 2. EXCISE TAX ON PLASTICS.**

8 (a) IN GENERAL.—Chapter 38 of the Internal Rev-
9 enue Code of 1986 is amended by adding at the end there-
10 of the following new subchapter:

1 **“Subchapter E—Tax on Plastics**

“Sec. 4691. Imposition of tax.
“Sec. 4692. Definitions and special rules.

2 **“SEC. 4691. IMPOSITION OF TAX.**

3 “(a) GENERAL RULE.—There is hereby imposed—

4 “(1) a tax on—

5 “(A) the entry into the United States of
6 any taxable virgin plastic resin for consumption,
7 use, or warehousing, and

8 “(B) the sale of any taxable virgin plastic
9 resin sold by an applicable entity unless there
10 was a prior taxable entry of such resin under
11 subparagraph (A), and

12 “(2) a tax on the entry into the United States
13 of any imported covered item.

14 “(b) AMOUNT OF TAX.—

15 “(1) TAXABLE VIRGIN PLASTIC RESIN.—

16 “(A) IN GENERAL.—The amount of the
17 tax imposed under subsection (a)(1) shall be de-
18 termined in accordance with the following table:

“For any entry or sale during calendar year:	The tax is the fol- lowing amount per pound of taxable virgin plastic resin:
2024	10 cents
2025	15 cents
2026	20 cents
2027 or thereafter	Adjusted amount.

1 “(B) ADJUSTED AMOUNT.—

2 “(i) IN GENERAL.—For purposes of
3 subparagraph (A), the adjusted amount for
4 any entry or sale during any calendar year
5 beginning after December 31, 2026, shall
6 be equal to the sum of—

7 “(I) 20 cents, plus

8 “(II) an amount equal to—

9 “(aa) 20 cents, multiplied by

10 “(bb) the cost-of-living ad-
11 justment determined under sec-
12 tion 1(f)(3) for the calendar year,
13 determined by substituting ‘cal-
14 endar year 2025’ for ‘calendar
15 year 2016’ in subparagraph
16 (A)(ii) thereof.

17 “(ii) ROUNDING.—If any amount de-
18 termined under clause (i) is not a multiple
19 of 1 cent, such amount shall be rounded to
20 the nearest multiple of 1 cent.

21 “(2) IMPORTED COVERED ITEMS.—

22 “(A) IN GENERAL.—Except as provided in
23 subparagraph (B), the amount of the tax im-
24 posed under paragraph (2) of subsection (a) on

1 any imported covered item shall be an amount
2 equal the product of—

3 “(i) the weight of such covered item
4 (expressed in pounds), multiplied by

5 “(ii) 20 cents.

6 “(B) AUTHORITY TO PRESCRIBE ALTER-
7 NATE RATE.—With respect to any imported
8 covered item for which the importer dem-
9 onstrates to the satisfaction of the Secretary
10 that such item is not entirely comprised of tax-
11 able virgin plastic resin, the Secretary may pre-
12 scribe, in lieu of the rate of tax specified under
13 subparagraph (A), an alternative rate of tax
14 with respect to such item for purposes of sub-
15 section (a)(2).

16 “(c) APPLICABLE ENTITY.—

17 “(1) IN GENERAL.—For purposes of this sec-
18 tion, the term ‘applicable entity’ means any manu-
19 facturer, producer, or importer of taxable virgin
20 plastic resin.

21 “(2) EXEMPTION.—

22 “(A) IN GENERAL.—The term ‘applicable
23 entity’ shall not include any manufacturer, pro-
24 ducer, or importer of taxable virgin plastic resin
25 which, with respect to any taxable year—

1 “(i)(I) in the case of a manufacturer
2 or producer, for the taxable year preceding
3 such taxable year, manufactured or pro-
4 duced not greater than 10 tons of taxable
5 virgin plastic resin, or

6 “(II) in the case of an importer, for
7 the taxable year preceding such taxable
8 year, imported not greater than 10 tons of
9 taxable virgin plastic resin, and

10 “(ii) meets the gross receipts test of
11 section 448(c) for such taxable year.

12 “(B) AGGREGATION RULE.—For purposes
13 of this paragraph, all persons treated as a sin-
14 gle employer under subsection (a) or (b) of sec-
15 tion 52 or subsection (m) or (o) of section 414
16 shall be treated as a single manufacturer, pro-
17 ducer, or importer.

18 “(C) ADMINISTRATION.—The Secretary
19 shall prescribe such regulations or other guid-
20 ance as may be necessary to administer this
21 paragraph, and may require information report-
22 ing from any manufacturer, producer, or im-
23 porter seeking application of subparagraph (A).

24 “(d) EXPORTATION.—

1 “(1) IN GENERAL.—No tax shall be imposed
2 under this section upon the sale of any taxable vir-
3 gin plastic resin or imported covered item for export,
4 and in due course so exported.

5 “(2) CREDIT OR REFUND WHERE TAX PAID.—

6 “(A) IN GENERAL.—Except as provided in
7 subparagraph (B), if—

8 “(i) tax under subsection (a) was paid
9 with respect to any taxable virgin plastic
10 resin or any imported covered item, and

11 “(ii) such resin or item was exported
12 by any person,

13 credit or refund (without interest) of such tax
14 shall be allowed or made to the person who paid
15 such tax.

16 “(B) CONDITION TO ALLOWANCE.—No
17 credit or refund shall be allowed or made under
18 subparagraph (A) unless the person who paid
19 the tax establishes that such person—

20 “(i) has repaid or agreed to repay the
21 amount of the tax to the person who ex-
22 ported the taxable virgin plastic resin or
23 imported covered item, or

1 “(ii) has obtained the written consent
2 of such exporter to the allowance of the
3 credit or the making of the refund.

4 “(3) REFUNDS DIRECTLY TO EXPORTER.—The
5 Secretary shall provide, in regulations, the cir-
6 cumstances under which a credit or refund (without
7 interest) of the tax under subsection (a) shall be al-
8 lowed or made to the person who exported the tax-
9 able virgin plastic resin or imported covered item,
10 where—

11 “(A) the person who paid the tax waives
12 their claim to the amount of such credit or re-
13 fund, and

14 “(B) the person exporting the taxable vir-
15 gin plastic resin or imported covered item pro-
16 vides such information as the Secretary may re-
17 quire in such regulations.

18 **“SEC. 4692. DEFINITIONS AND SPECIAL RULES.**

19 “(a) DEFINITIONS.—For purposes of this sub-
20 chapter—

21 “(1) COVERED ITEM.—

22 “(A) IN GENERAL.—The term ‘covered
23 item’ means a single-use product which contains
24 taxable virgin plastic resin, including any pack-

1 aging, food service product, beverage container,
2 or bag.

3 “(B) EXCLUSION.—The term ‘covered
4 item’ shall not include—

5 “(i) a medical product which—

6 “(I) is regulated under—

7 “(aa) the Federal Food,
8 Drug, and Cosmetic Act, or

9 “(bb) the Public Health
10 Service Act, and

11 “(II) the Secretary of Health and
12 Human Services declares needs to be
13 made of virgin plastic for public
14 health or the health of the user,

15 “(ii) a container for—

16 “(I) a drug,

17 “(II) infant formula,

18 “(III) a meal replacement liquid,

19 “(IV) a biologic, or

20 “(V) a medical device,

21 “(iii) a personal or feminine hygiene
22 product that could be unsafe or unsanitary
23 to recycle,

24 “(iv) a sexual health product, or

25 “(v) packaging—

1 “(I) for a product described in
2 clauses (i) through (iv), or

3 “(II) used for the shipment of
4 hazardous materials that is prohibited
5 from being composed of used mate-
6 rials under section 178.509 or
7 178.522 of title 49, Code of Federal
8 Regulations (as in effect on the date
9 of enactment of this subchapter).

10 “(C) OTHER TERMS.—

11 “(i) BAG.—The term ‘bag’ means a
12 container which is—

13 “(I) a single-use product which
14 contains taxable virgin plastic resin,
15 and

16 “(II) made of flexible material
17 with an opening and used for carrying
18 items.

19 “(ii) BEVERAGE CONTAINER.—The
20 term ‘beverage container’ means a vessel
21 for beverages—

22 “(I) which is a single-use product
23 which contains taxable virgin plastic
24 resin, and

1 “(II) the volume of which is not
2 greater than 3 liters.

3 “(iii) FOOD SERVICE PRODUCT.—The
4 term ‘food service product’ means an
5 item—

6 “(I) which is a single-use product
7 which contains taxable virgin plastic
8 resin, and

9 “(II) designed to deliver a food
10 product, including a utensil, straw,
11 drink cup, drink lid, food package,
12 food container, plate, bowl, meat tray,
13 or food wrap.

14 “(iv) PACKAGING.—

15 “(I) IN GENERAL.—The term
16 ‘packaging’ means a package, con-
17 tainer, packing materials, or other
18 material—

19 “(aa) which is a single-use
20 product which contains taxable
21 virgin plastic resin, and

22 “(bb) used for the contain-
23 ment, protection, handling, deliv-
24 ery, or presentation of goods.

1 “(II) PRODUCTS INCLUDED AS
2 PACKAGING.—The term ‘packaging’
3 shall include any item described in
4 subclause (I) which is—

5 “(aa) intended for the con-
6 sumer market,

7 “(bb) service packaging de-
8 signed and intended to be used
9 or filled at the point of sale, such
10 as carry-out bags, bulk good
11 bags, take-out bags, and home
12 delivery food service packaging,

13 “(cc) secondary packaging
14 used to group products for multi-
15 unit sale,

16 “(dd) tertiary packaging
17 used for transportation or dis-
18 tribution directly to a consumer,
19 or

20 “(ee) an ancillary element
21 hung or attached to a product
22 and performing a packaging
23 function.

1 “(i) which is derived from petroleum
2 or gas (including ethylene, propylene, poly-
3 ethylene, polypropylene, polystyrene, and
4 polyvinyl chloride), and

5 “(ii) which is manufactured or pro-
6 duced in the United States or entered into
7 the United States for consumption, use, or
8 warehousing.

9 “(B) EXCLUSION OF POST-CONSUMER RE-
10 CYCLED RESIN.—The term ‘taxable virgin plas-
11 tic resin’ shall not include any resin which is es-
12 tablished to the satisfaction of the Secretary to
13 be reprocessed from recovered material so that
14 it can be used in place of resin described in
15 clause (i) of subparagraph (A).

16 “(4) UNITED STATES.—The term ‘United
17 States’ has the meaning given such term by section
18 4612(a)(4).

19 “(5) IMPORTER.—The term ‘importer’ means
20 the person entering the taxable virgin plastic resin
21 or covered item into the United States for consump-
22 tion, use, or warehousing.

23 “(b) FRACTION OF A POUND.—In the case of a frac-
24 tion of a pound, the tax imposed by section 4691 shall

1 be the same fraction of the amount of such tax imposed
2 on a whole pound.

3 “(c) USE TREATED AS SALE.—If any applicable enti-
4 ty manufactures, produces, or imports any taxable virgin
5 plastic resin and uses such resin, then such person shall
6 be liable for tax under section 4691 in the same manner
7 as if such resin were sold by such entity.

8 “(d) EXCEPTION FOR CERTAIN USES.—

9 “(1) IN GENERAL.—Under regulations pre-
10 scribed by the Secretary, in the case of any taxable
11 virgin plastic resin for which the manufacturer, pro-
12 ducer, or importer of such resin—

13 “(A) certifies that such resin will only be
14 used in the manufacture or production within
15 the United States of any product which is not
16 a covered item, and

17 “(B) satisfies the registration requirements
18 under paragraph (2),

19 no tax shall be imposed under section 4691(a)(1).

20 “(2) REGISTRATION.—

21 “(A) IN GENERAL.—With respect to any
22 taxable year, the Secretary shall require any
23 person seeking an exemption under paragraph
24 (1) to register with the Secretary at such time,
25 in such form and manner, and subject to such

1 terms and conditions, as the Secretary may by
2 regulations prescribe. A registration under this
3 paragraph may be used only in accordance with
4 regulations prescribed under this paragraph.

5 “(B) REGISTRATION IN EVENT OF CHANGE
6 IN OWNERSHIP.—Under regulations prescribed
7 by the Secretary, a person (other than a cor-
8 poration the stock of which is regularly traded
9 on an established securities market) shall be re-
10 quired to re-register under this paragraph if
11 after a transaction (or series of related trans-
12 actions) more than 50 percent of ownership in-
13 terests in, or assets of, such person are held by
14 persons other than persons (or persons related
15 thereto) who held more than 50 percent of such
16 interests or assets before the transaction (or se-
17 ries of related transactions).

18 “(C) DENIAL, REVOCATION, OR SUSPEN-
19 SION OF REGISTRATION.—Rules similar to the
20 rules of section 4222(c) shall apply to registra-
21 tion under this paragraph.

22 “(D) INFORMATION REPORTING.—The
23 Secretary may require—

24 “(i) information reporting by any per-
25 son registered under this paragraph, and

1 “(ii) information reporting by such
2 other persons as the Secretary deems nec-
3 essary to carry out this paragraph.

4 “(3) SALES TO CERTAIN SMALL BUYERS.—

5 “(A) IN GENERAL.—Under regulations
6 prescribed by the Secretary, in the case of any
7 taxable virgin plastic resin which is sold by the
8 manufacturer, producer, or importer of such
9 resin to a person who—

10 “(i) meets the gross receipts test of
11 section 448(c) for the taxable year in
12 which such resin is sold, and

13 “(ii) provides such manufacturer, pro-
14 ducer, or importer with a certificate which
15 includes—

16 “(I) the name and address of
17 such person,

18 “(II) the applicable period (not
19 to exceed 4 calendar quarters) for
20 which the certificate applies, and

21 “(III) a statement that—

22 “(aa) such person satisfies
23 the requirement under clause (i),
24 and

1 “(bb) such resin will only be
2 used in the manufacture or pro-
3 duction within the United States
4 of any product which is not a
5 covered item,

6 no tax shall be imposed under section
7 4691(a)(1).

8 “(4) TAXATION OF NONQUALIFIED USE.—For
9 purposes of section 4691(a)(1), if no tax was im-
10 posed by such section on the sale of any taxable vir-
11 gin plastic resin by reason of paragraph (1) or para-
12 graph (3), the first person who uses such resin in
13 a manner other than a use described in such para-
14 graph shall be treated as the manufacturer of such
15 resin.

16 “(e) REFUND OR CREDIT FOR CERTAIN USES.—
17 Under regulations prescribed by the Secretary, if—

18 “(1) a tax under section 4691(a)(1) was paid
19 with respect to any taxable virgin plastic resin, and

20 “(2) such resin was used by any person in the
21 manufacture or production within the United States
22 of any product which is not a covered item,

23 then an amount equal to the tax so paid shall be allowed
24 as a credit or refund (without interest) to such person in

1 the same manner as if it were an overpayment of tax im-
2 posed by such section.

3 “(f) DISPOSITION OF REVENUES FROM PUERTO
4 RICO AND THE VIRGIN ISLANDS.—The provisions of sub-
5 sections (a)(3) and (b)(3) of section 7652 shall not apply
6 to any tax imposed by section 4691.

7 “(g) IMPOSITION OF FLOOR STOCKS TAXES.—

8 “(1) IN GENERAL.—

9 “(A) IN GENERAL.—If, on any tax-increase
10 date, any taxable virgin plastic resin or im-
11 ported covered item is held by any person
12 (other than the manufacturer, producer, or im-
13 porter thereof) for sale or for use in further
14 manufacture, there is hereby imposed a floor
15 stocks tax.

16 “(B) AMOUNT OF TAX.—The amount of
17 the tax imposed by subparagraph (A) shall be
18 the excess (if any) of—

19 “(i) the tax which would be imposed
20 under section 4691—

21 “(I) in the case of any taxable
22 virgin plastic resin, on such resin if
23 the sale of such resin by the applica-
24 ble entity had occurred on the tax-in-
25 crease date, or

1 “(II) in the case of any imported
2 covered item, on such item if the
3 entry or withdrawal of such item by
4 the importer thereof had occurred on
5 the tax-increase date, over

6 “(ii) the prior tax (if any) imposed by
7 this subchapter on such resin or item.

8 “(C) TAX-INCREASE DATE.—For purposes
9 of this paragraph, the term ‘tax-increase date’
10 means January 1 of any calendar year.

11 “(2) DUE DATE.—The taxes imposed by this
12 subsection on January 1 of any calendar year shall
13 be paid on or before June 30 of such year.

14 “(3) APPLICATION OF OTHER LAWS.—All other
15 provisions of law, including penalties, applicable with
16 respect to the taxes imposed by section 4691 shall
17 apply to the floor stocks taxes imposed by this sub-
18 section.

19 “(h) REGULATIONS.—The Secretary shall prescribe
20 such regulations as may be necessary to carry out the pro-
21 visions of this subchapter.”.

22 (b) PLASTIC WASTE REDUCTION FUND.—Sub-
23 chapter A of chapter 98 of the Internal Revenue Code of
24 1986 is amended by adding at the end the following new
25 section:

1 **“SEC. 9512. PLASTIC WASTE REDUCTION FUND.**

2 “(a) ESTABLISHMENT AND FUNDING.—There is
3 hereby established in the Treasury of the United States
4 a trust fund to be referred to as the ‘Plastic Waste Reduc-
5 tion Fund’, consisting of such amounts as may be appro-
6 priated or credited to such trust fund as provided for in
7 this section and section 9602(b).

8 “(b) TRANSFERS TO THE PLASTIC WASTE REDUC-
9 TION FUND.—There are hereby appropriated to the Plas-
10 tic Waste Reduction Fund amounts equivalent to the taxes
11 received in the Treasury under section 4691.

12 “(c) EXPENDITURES FROM THE PLASTIC WASTE
13 REDUCTION FUND.—Subject to subsection (d), amounts
14 in the Plastic Waste Reduction Fund shall be available,
15 as provided by appropriation Acts, for making expendi-
16 tures—

17 “(1) to carry out reduction, recycling, and reuse
18 activities, including—

19 “(A) making improvements to recycling in-
20 frastructure, or

21 “(B) establishing or improving infrastruc-
22 ture for reuse and refill systems,

23 “(2) to carry out plastic waste and marine de-
24bris reduction, detection, monitoring, and cleanup
25 activities of—

1 “(A) the grant programs established under
2 section 302 of the Save Our Seas 2.0 Act (33
3 U.S.C. 4282),

4 “(B) the Marine Debris Program estab-
5 lished by section 3 of the Marine Debris Act
6 (33 U.S.C. 1952),

7 “(C) the Marine Debris Foundation estab-
8 lished by section 111 of the Save Our Seas 2.0
9 Act (33 U.S.C. 4211), and

10 “(D) other Federal programs carrying out
11 such activities, and

12 “(3) to address environmental justice and pollu-
13 tion impacts from plastic production.

14 “(d) PROHIBITION ON CERTAIN EXPENDITURES.—
15 No amount in the Plastic Waste Reduction Fund shall be
16 available for making any expenditure relating to—

17 “(1) the use of waste—

18 “(A) as a fuel or fuel substitute,

19 “(B) for energy production,

20 “(C) for alternative daily cover, or

21 “(D) within the footprint of a landfill, or

22 “(2) the conversion of waste into alternative
23 products (such as chemicals, feedstocks, fuels, or en-
24 ergy) through—

25 “(A) incineration,

1 “(B) pyrolysis,
2 “(C) hydrolysis,
3 “(D) methanolysis,
4 “(E) gasification, or
5 “(F) any method similar to the methods
6 described in subparagraphs (A) through (E), as
7 identified by the Secretary.”.

8 (c) CLERICAL AMENDMENTS.—

9 (1) The table of subchapters for chapter 38 of
10 the Internal Revenue Code of 1986 is amended by
11 adding at the end the following new item:

 “SUBCHAPTER E—TAX ON PLASTICS”.

12 (2) The table of sections for subchapter A of
13 chapter 98 of such Code is amended by adding at
14 the end the following new item:

 “Sec. 9512. Plastic Waste Reduction Fund.”.

15 (d) EFFECTIVE DATE.—The amendments made by
16 this section shall take effect on January 1, 2024.