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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

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

SEC. 2. EXCISE TAX ON PLASTICS.

(a) IN GENERAL.—Chapter 38 of the Internal Revenue Code of 1986 is amended by adding at the end there-
“Subchapter E—Tax on Plastics

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

“SEC. 4691. IMPOSITION OF TAX.

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

“(1) a tax on—

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

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

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

“(b) AMOUNT OF TAX.—

“(1) TAXABLE VIRGIN PLASTIC RESIN.—

“(A) IN GENERAL.—The amount of the tax imposed under subsection (a)(1) shall be determined in accordance with the following table:

<table>
<thead>
<tr>
<th>Year</th>
<th>Tax per Pound of Resin</th>
</tr>
</thead>
<tbody>
<tr>
<td>2024</td>
<td>10 cents</td>
</tr>
<tr>
<td>2025</td>
<td>15 cents</td>
</tr>
<tr>
<td>2026</td>
<td>20 cents</td>
</tr>
<tr>
<td>2027 or thereafter</td>
<td>Adjusted amount</td>
</tr>
</tbody>
</table>
“(B) ADJUSTED AMOUNT.—

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

“(I) 20 cents, plus

“(II) an amount equal to—

“(aa) 20 cents, multiplied by

“(bb) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year,

determined by substituting ‘calendar year 2025’ for ‘calendar year 2016’ in subparagraph (A)(ii) thereof.

“(ii) Rounding.—If any amount determined under clause (i) is not a multiple of 1 cent, such amount shall be rounded to the nearest multiple of 1 cent.

“(2) IMPORTED COVERED ITEMS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the amount of the tax imposed under paragraph (2) of subsection (a) on
any imported covered item shall be an amount
equal the product of—

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

“(ii) 20 cents.

“(B) Authority to prescribe alternate rate.—With respect to any imported
covered item for which the importer dem-
onstrates to the satisfaction of the Secretary
that such item is not entirely comprised of tax-
able virgin plastic resin, the Secretary may pre-
scribe, in lieu of the rate of tax specified under
subparagraph (A), an alternative rate of tax
with respect to such item for purposes of sub-
section (a)(2).

“(c) Applicable entity.—

“(1) In general.—For purposes of this sec-
tion, the term ‘applicable entity’ means any manu-
ufacturer, producer, or importer of taxable virgin
plastic resin.

“(2) Exemption.—

“(A) In general.—The term ‘applicable
entity’ shall not include any manufacturer, pro-
ducer, or importer of taxable virgin plastic resin
which, with respect to any taxable year—
“(i)(I) in the case of a manufacturer
or producer, for the taxable year preceding
such taxable year, manufactured or pro-
duced not greater than 10 tons of taxable
virgin plastic resin, or

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

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

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

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

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

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

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

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

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

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

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

“(i) has repaid or agreed to repay the amount of the tax to the person who exported the taxable virgin plastic resin or imported covered item, or
“(ii) has obtained the written consent of such exporter to the allowance of the credit or the making of the refund.

“(3) REFUNDS DIRECTLY TO EXPORTER.—The Secretary shall provide, in regulations, the circumstances under which a credit or refund (without interest) of the tax under subsection (a) shall be allowed or made to the person who exported the taxable virgin plastic resin or imported covered item, where—

“(A) the person who paid the tax waives their claim to the amount of such credit or refund, and

“(B) the person exporting the taxable virgin plastic resin or imported covered item provides such information as the Secretary may require in such regulations.

“SEC. 4692. DEFINITIONS AND SPECIAL RULES.

“(a) DEFINITIONS.—For purposes of this subchapter—

“(1) COVERED ITEM.—

“(A) IN GENERAL.—The term ‘covered item’ means a single-use product which contains taxable virgin plastic resin, including any pack-
aging, food service product, beverage container, or bag.

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

“(i) a medical product which—

“(I) is regulated under—

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

“(bb) the Public Health Service Act, and

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

“(ii) a container for—

“(I) a drug,

“(II) infant formula,

“(III) a meal replacement liquid,

“(IV) a biologic, or

“(V) a medical device,

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

“(iv) a sexual health product, or

“(v) packaging—
“(I) for a product described in clauses (i) through (iv), or

“(II) used for the shipment of hazardous materials that is prohibited from being composed of used materials under section 178.509 or 178.522 of title 49, Code of Federal Regulations (as in effect on the date of enactment of this subchapter).

“(C) OTHER TERMS.—

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

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

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

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

“(I) which is a single-use product which contains taxable virgin plastic resin, and
“(II) the volume of which is not greater than 3 liters.

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

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

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

“(iv) **PACKAGING.**—

“(I) **IN GENERAL.**—The term ‘packaging’ means a package, container, packing materials, or other material—

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

“(bb) used for the containment, protection, handling, delivery, or presentation of goods.
“(II) PRODUCTS INCLUDED AS PACKAGING.—The term ‘packaging’ shall include any item described in subclause (I) which is—

“(aa) intended for the consumer market,

“(bb) service packaging designed and intended to be used or filled at the point of sale, such as carry-out bags, bulk good bags, take-out bags, and home delivery food service packaging,

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

“(dd) tertiary packaging used for transportation or distribution directly to a consumer, or

“(ee) an ancillary element hung or attached to a product and performing a packaging function.
“(v) SINGLE-USE PRODUCT.—The term ‘single-use product’ means a product which is—

“(I) routinely disposed of after a single use or after its contents have been used or unpackaged, and typically not refilled, and

“(II) not durable, washable, or routinely used for one of the purposes for which it was designed multiple times before disposal.

“(2) IMPORTED COVERED ITEM.—The term ‘imported covered item’ means any covered item—

“(A) entered into the United States for consumption, use, or warehousing, and

“(B) which is—

“(i) intended for subsequent sale or use, and

“(ii) at the time such item is entered into the United States, not used as a container or packaging for a different product which is not itself a covered item.

“(3) TAXABLE VIRGIN PLASTIC RESIN.—

“(A) IN GENERAL.—The term ‘taxable virgin plastic resin’ means any resin—
“(i) which is derived from petroleum or gas (including ethylene, propylene, polyethylene, polypropylene, polystyrene, and polyvinyl chloride), and

“(ii) which is manufactured or produced in the United States or entered into the United States for consumption, use, or warehousing.

“(B) **Exclusion of Post-Consumer Recycled Resin.**—The term ‘taxable virgin plastic resin’ shall not include any resin which is established to the satisfaction of the Secretary to be reprocessed from recovered material so that it can be used in place of resin described in clause (i) of subparagraph (A).

“(4) **United States.**—The term ‘United States’ has the meaning given such term by section 4612(a)(4).

“(5) **Importer.**—The term ‘importer’ means the person entering the taxable virgin plastic resin or covered item into the United States for consumption, use, or warehousing.

“(b) **Fraction of a Pound.**—In the case of a fraction of a pound, the tax imposed by section 4691 shall
be the same fraction of the amount of such tax imposed on a whole pound.

“(c) Use Treated as Sale.—If any applicable entity manufactures, produces, or imports any taxable virgin plastic resin and uses such resin, then such person shall be liable for tax under section 4691 in the same manner as if such resin were sold by such entity.

“(d) Exception for Certain Uses.—

“(1) In General.—Under regulations prescribed by the Secretary, in the case of any taxable virgin plastic resin for which the manufacturer, producer, or importer of such resin—

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

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

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

“(2) Registration.—

“(A) In General.—With respect to any taxable year, the Secretary shall require any person seeking an exemption under paragraph (1) to register with the Secretary at such time, in such form and manner, and subject to such
terms and conditions, as the Secretary may by
regulations prescribe. A registration under this
paragraph may be used only in accordance with
regulations prescribed under this paragraph.

“(B) Registration in event of change
in ownership.—Under regulations prescribed
by the Secretary, a person (other than a cor-
poration the stock of which is regularly traded
on an established securities market) shall be re-
quired to re-register under this paragraph if
after a transaction (or series of related trans-
actions) more than 50 percent of ownership in-
terests in, or assets of, such person are held by
persons other than persons (or persons related
thereto) who held more than 50 percent of such
interests or assets before the transaction (or se-
ries of related transactions).

“(C) Denial, revocation, or suspension of registration.—Rules similar to the
rules of section 4222(c) shall apply to registra-
tion under this paragraph.

“(D) Information reporting.—The
Secretary may require—

“(i) information reporting by any per-
son registered under this paragraph, and
“(ii) information reporting by such other persons as the Secretary deems necessary to carry out this paragraph.

“(3) Sales to Certain Small Buyers.—

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

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

“(ii) provides such manufacturer, producer, or importer with a certificate which includes—

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

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

“(III) a statement that—

“(aa) such person satisfies the requirement under clause (i), and
“(bb) such resin will only be used in the manufacture or production within the United States of any product which is not a covered item,
no tax shall be imposed under section 4691(a)(1).

“(4) TAXATION OF NONQUALIFIED USE.—For purposes of section 4691(a)(1), if no tax was imposed by such section on the sale of any taxable virgin plastic resin by reason of paragraph (1) or paragraph (3), the first person who uses such resin in a manner other than a use described in such paragraph shall be treated as the manufacturer of such resin.

“(e) REFUND OR CREDIT FOR CERTAIN USES.—Under regulations prescribed by the Secretary, if—
“(1) a tax under section 4691(a)(1) was paid with respect to any taxable virgin plastic resin, and
“(2) such resin was used by any person in the manufacture or production within the United States of any product which is not a covered item,
then an amount equal to the tax so paid shall be allowed as a credit or refund (without interest) to such person in
the same manner as if it were an overpayment of tax imposed by such section.

“(f) Disposition of Revenues From Puerto Rico and the Virgin Islands.—The provisions of subsections (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by section 4691.

“(g) Imposition of Floor Stocks Taxes.—

“(1) In general.—

“(A) In general.—If, on any tax-increase date, any taxable virgin plastic resin or imported covered item is held by any person (other than the manufacturer, producer, or importer thereof) for sale or for use in further manufacture, there is hereby imposed a floor stocks tax.

“(B) Amount of tax.—The amount of the tax imposed by subparagraph (A) shall be the excess (if any) of—

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

“(I) in the case of any taxable virgin plastic resin, on such resin if the sale of such resin by the applicable entity had occurred on the tax-increase date, or
“(II) in the case of any imported covered item, on such item if the entry or withdrawal of such item by the importer thereof had occurred on the tax-increase date, over
“(ii) the prior tax (if any) imposed by this subchapter on such resin or item.
“(C) Tax-increase date.—For purposes of this paragraph, the term ‘tax-increase date’ means January 1 of any calendar year.
“(2) Due date.—The taxes imposed by this subsection on January 1 of any calendar year shall be paid on or before June 30 of such year.
“(3) Application of other laws.—All other provisions of law, including penalties, applicable with respect to the taxes imposed by section 4691 shall apply to the floor stocks taxes imposed by this subsection.
“(h) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this subchapter.”.

(b) Plastic Waste Reduction Fund.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:
"SEC. 9512. PLASTIC WASTE REDUCTION FUND.

(a) Establishment and Funding.—There is hereby established in the Treasury of the United States a trust fund to be referred to as the ‘Plastic Waste Reduction Fund’, consisting of such amounts as may be appropriated or credited to such trust fund as provided for in this section and section 9602(b).

(b) Transfers to the Plastic Waste Reduction Fund.—There are hereby appropriated to the Plastic Waste Reduction Fund amounts equivalent to the taxes received in the Treasury under section 4691.

(c) Expenditures from the Plastic Waste Reduction Fund.—Subject to subsection (d), amounts in the Plastic Waste Reduction Fund shall be available, as provided by appropriation Acts, for making expenditures—

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

(A) making improvements to recycling infrastructure, or

(B) establishing or improving infrastructure for reuse and refill systems,

(2) to carry out plastic waste and marine debris reduction, detection, monitoring, and cleanup activities of—
“(A) the grant programs established under section 302 of the Save Our Seas 2.0 Act (33 U.S.C. 4282),

“(B) the Marine Debris Program established by section 3 of the Marine Debris Act (33 U.S.C. 1952),

“(C) the Marine Debris Foundation established by section 111 of the Save Our Seas 2.0 Act (33 U.S.C. 4211), and

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

“(3) to address environmental justice and pollution impacts from plastic production.

“(d) Prohibition on Certain Expenditures.—No amount in the Plastic Waste Reduction Fund shall be available for making any expenditure relating to—

“(1) the use of waste—

“(A) as a fuel or fuel substitute,

“(B) for energy production,

“(C) for alternative daily cover, or

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

“(2) the conversion of waste into alternative products (such as chemicals, feedstocks, fuels, or energy) through—

“(A) incineration,
“(B) pyrolysis,
“(C) hydropyrolysis,
“(D) methanolysis,
“(E) gasification, or
“(F) any method similar to the methods described in subparagraphs (A) through (E), as identified by the Secretary.”.

(c) Clerical Amendments.—

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

“SUBCHAPTER E—TAX ON PLASTICS”.

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

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

(d) Effective Date.—The amendments made by this section shall take effect on January 1, 2024.