

This document has been prepared as part of the implementation project of Legal Pathways to Deep Decarbonization (Michael B. Gerrard and John C. Dernbach, eds. Environmental Law Institute [2019]) (LPDD). For background information on the project, see <https://lpdd.org>

Chapter 1. Title

[Federal or State] Carbon Labeling Act¹

Chapter 2. Findings and Declarations

- (a) Global warming poses a serious threat to the economic well-being, public health, natural resources, and the environment of [the United States or State].
- (b) Household purchases, including durable and consumer goods like appliances and food, generate significant greenhouse gas (GHG) emissions.
- (c) Even minor adjustments in the household sector could have a substantial impact on reducing GHG emissions.
- (d) The measurement and disclosure of the carbon footprint of consumer products is an important step in GHG emissions reduction.
- (e) The [United States or State] should identify the best approach to standardizing product labeling to help businesses and to provide accurate information to consumers.
- (f) The development of a carbon footprint or greenhouse gas emissions labeling program for consumer products can harness the power of the marketplace to create incentives for manufacturers to innovate and compete to reduce the carbon footprint of their products.
- (g) The development of a carbon footprint or greenhouse gas emissions labeling program for consumer products may also generate information about product-specific GHG emissions that can be used to determine further climate mitigation measures such as border adjustments and carbon taxes.

Chapter 3. Definitions

As used in this Act, the following terms have the following meanings:

- (a) “Carbon footprint” means the total amount of emissions of greenhouse gas that occur as a result of a product’s life cycle, from raw materials through production, distribution, consumer use, and disposal/recycling. It does not consider any other potential environmental, social, and economic impacts (e.g., biodiversity, water use or labor).
- (b) “Agency” means the [federal or state] agency or department that is or will be responsible for implementing this program.

¹ The model law for carbon footprint product labels is modeled after selected parts of the California Assembly Bill 19, the Carbon Labeling Act of 2009. Greenhouse gas emissions: consumer product labeling, Cal. Assemb. B. 19 (2009-2010), (Cal. Stat. 2008). http://leginfo.ca.gov/pub/09-10/bill/asm/ab_0001-0050/ab_19_bill_20081201_introduced.pdf and the certification and disclosure principles of Publicly Available Specification (PAS) 2050 – Specification for the assessment of the life cycle greenhouse gas emissions of goods and services. See also British Standards. (n.d.). Guide to PAS 2050 How to assess the carbon footprint of goods and services. London. <https://www.co2-sachverstaendiger.de/pdf/BSI%20Guide%20to%20PAS2050.pdf>

- (c) “Consumer product” means any tangible personal property that is distributed in commerce within the [United States or State], and which is normally used for personal, family, or household purposes.
- (d) “Nongovernmental organization” refers to a nonprofit organization that operates independently of the federal government, although it may receive government funding through grants.
- (e) “Greenhouse gas” means carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and any other substance emitted into the air that may be reasonably anticipated to cause or contribute to anthropogenic climate change.

Chapter 4. Carbon Labeling Program

- (a) The Agency will develop and implement a program for the [voluntary] assessment, verification, and disclosure, through a product label, of the carbon footprint of a consumer product sold in [the United States or State]. The Agency will only include a product category in the program if it determines that it is feasible and practical to do so. The Agency may choose to adopt a methodology for a single product category before expanding the scope of the standard to other product categories.
- (b) The program will do the following:
 - 1. Require the Agency to create or adopt a standard methodology for calculating the carbon footprint of a consumer product,
 - 2. Require the Agency to designate a third-party nongovernment organization to scrutinize the process used by a participating consumer product manufacturer to calculate the carbon footprint of a consumer product, verify the data sources and calculations, and certify the correct application of the methodology,
 - 3. Require the Agency to develop labeling standards and a standard carbon footprint label that clearly and effectively presents easily understandable, relevant information about a product’s verified carbon footprint data,
 - 4. [Allow/Require] a manufacturer of a consumer product to participate in the program and to calculate the carbon footprint of its products according to the standard methodology established by the Agency for this program,
 - 5. Require the participating consumer product manufacturer to have its carbon footprint calculations, data sources, and processes used to calculate the carbon footprint, verified, and then certified by the designated third-party nongovernmental organization in this program,
 - 6. Require the participating consumer product manufacturer to have the relevant portions of the verified carbon footprint data disclosed on the standard carbon footprint label established by the Agency, according to the labeling standards developed by the Agency for this program, and
 - 7. Require the participating consumer product manufacturer to place the carbon footprint label on its products and/or product packaging and/or product advertising, in accordance with the labeling standards developed by the Agency for this program.
- (c) The Agency may use data from outside sources to develop or establish the carbon footprint calculation standard referred to in subdivisions (a) & (b), including the use of existing protocols and models. The Agency will consult with experts, representatives of

consumer product manufacturers, consumer groups, environmental groups, and nongovernmental organizations, and conduct public hearings and workshops, to inform the development or adoption of a standard for carbon footprint calculation.

- (d) Once a carbon footprint calculation standard is established, the carbon footprint calculation standard should be consistently applied throughout the program, as feasible and practicable, to ensure coherence..
- (e) The Agency may use data from outside sources to develop the labeling standards and label design for the carbon footprint label referred to in subdivisions (a) & (b), including the use of existing models and labels. The Agency will consult with experts, representatives of consumer product manufacturers, consumer groups, environmental groups, and nongovernmental organizations, and conduct public hearings and workshops, to inform the development of the labeling standards and label design.
- (f) Once a labeling standard and label design are established, the final carbon footprint label should be standardized and consistently applied throughout the program, as feasible and practicable, to ensure coherence.
- (g) The Agency may contract for cost-effective services necessary to implement this chapter.
- (h) Consumer product manufacturers that label their products by this chapter will be responsible for all costs related to the review and validation of the carbon label information required by the Agency.

Chapter 5. Penalties for False or Deceptive Claims

- (a) Any consumer product manufacturer found guilty of knowingly making false, deceptive, or unsubstantiated claims or knowingly providing false, deceptive, or unsubstantiated data for purposes of this Act will be subject to penalties.
- (b) Penalties may include monetary fines or corrective advertising to rectify false or misleading claims.
- (c) For repeated violations, the manufacturer may face increased fines and other remedies deemed appropriate by the Agency.