S-3483.1

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SENATE BILL 5731**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 67th Legislature 2022 Regular Session**

**By** Senators Das, Lovelett, Nguyen, Saldaña, and Stanford

AN ACT Relating to organic materials management; amending RCW 70A.205.040, 69.80.031, 69.80.040, 89.08.615, 43.155.020, 36.70.330, 39.30.040, 70A.455.010, 70A.455.020, 70A.455.040, 70A.455.050, 70A.455.060, 70A.455.070, 70A.455.080, 70A.455.090, and 70A.455.100; reenacting and amending RCW 43.21B.110 and 43.21B.300; adding new sections to chapter 70A.205 RCW; adding a new section to chapter 43.21C RCW; adding a new section to chapter 36.70A RCW; adding a new section to chapter 35.63 RCW; adding a new section to chapter 35A.63 RCW; adding new sections to chapter 43.19A RCW; adding new sections to chapter 70A.455 RCW; adding a new chapter to Title 70A RCW; creating new sections; repealing RCW 70A.455.110 and 70A.455.900; prescribing penalties; and providing an expiration date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  (1) The legislature finds that landfills are a significant source of emissions of methane, a potent greenhouse gas. Among other economic and environmental benefits, the diversion of organic materials to productive uses will reduce methane emissions.

(2) In order to reduce methane emissions associated with organic materials, the legislature finds that it will be beneficial to improve a variety of aspects of how organic materials are reduced, managed, incentivized, and regulated under state law. Therefore, it is the intent of the legislature to support the diversion of organic materials from landfills through a variety of interventions to support productive uses of organic material wastes, including by:

(a) Requiring some local governments to begin providing separated organic material collection services within their jurisdictions in order to increase volumes of organic materials collected and delivered to composting and other organic material management facilities and reduce the volumes of organic materials collected in conjunction with other solid waste and delivered to landfills;

(b) Requiring local governments to consider state organic material management goals and requirements in the development of their local solid waste plans;

(c) Requiring some businesses to manage their organic wastes in a manner that does not involve landfilling them, in order to address one significant source of organic materials that currently frequently end up in landfills;

(d) Reducing legal liability risk barriers to the donation of edible food in order to encourage the recovery of foods that might otherwise be landfilled;

(e) Establishing the Washington center for sustainable food management within the department of ecology in order to coordinate and improve statewide food waste reduction and diversion efforts;

(f) Establishing various new funding and financial incentives intended to increase composting and other forms of productive organic materials management, helping to make the responsible management of organic materials more cost-competitive with landfilling of organic wastes;

(g) Facilitating the siting of organic material management facilities in order to ensure that adequate capacity exists to process organic materials at the volumes necessary to achieve state organic material diversion goals;

(h) Requiring local governments to procure more of the compost and finished products created from their organic material wastes in order to support the economic viability of processes to turn organic materials into finished products, and increasing the likelihood that composting and other responsible organic material management options are economically viable; and

(i) Amending standards related to the labeling of plastic and compostable products in order to reduce contamination of the waste streams handled by compost and organic material management facilities and improve the economic viability of those responsible organic material management options.

**PART 1**

**State Targets and Organic Waste Collection Requirements**

NEW SECTION. **Sec.**  A new section is added to chapter 70A.205 RCW to read as follows:

(1)(a) The state establishes a goal for the landfill disposal of organic materials at a level representing a 75 percent reduction by 2030 in the statewide disposal of organic waste, relative to 2015 levels.

(b) The state establishes a goal that no less than 20 percent of the volume of edible food that was disposed of as of 2015 be recovered for human consumption by 2025.

(2) The provisions of subsection (1) of this section are in addition to the food waste reduction goals of RCW 70A.205.715(1).

(3) For the purposes of this section, "organic materials" means any solid waste that is a biological substance of plant or animal origin capable of microbial degradation. Organic materials include, but are not limited to, manure, yard debris, food waste, food processing wastes, wood waste, and garden wastes.

NEW SECTION. **Sec.**  A new section is added to chapter 70A.205 RCW to read as follows:

(1) Beginning January 1, 2027, each jurisdiction that implements a local solid waste plan under RCW 70A.205.040 must:

(a) Provide within the jurisdiction organic solid waste collection services to all residents and to businesses that generate more than .5 cubic yard of organic materials for management; and

(b) Provide for the organic materials management of all organic solid waste collected from residents and businesses under (a) of this subsection.

(2) A jurisdiction may charge and collect fees or rates for the services provided under subsection (1) of this section, consistent with the jurisdiction's authority to impose fees and rates under chapters 35.21, 35A.21, 36.58, and 36.58A RCW.

(3)(a) Except as provided in (d) of this subsection, the requirements of this section do not apply in a jurisdiction if the department determines that the following apply:

(i) The jurisdiction disposed of less than 5,000 tons of solid waste in the most recent year for which data is available; or

(ii) The jurisdiction has a total population of less than 25,000 people.

(b) The requirements of this section do not apply in census tracts that have a population density of less than 75 people per square mile that are serviced by the jurisdiction and located in unincorporated portions of a county, as determined by the department.

(c) In addition to the exemptions in (b) of this subsection, the department may issue a waiver to jurisdictions or portions of a jurisdiction under this subsection for up to five years, based on consideration of factors including the distance to organic materials management facilities, the capacity at the facilities to manage additional organic materials, and restrictions in the transport of organic materials under chapter 17.24 RCW. The department may adopt rules to specify the type of information that a waiver applicant must submit to the department and to specify the department's process for reviewing and approving waiver applications.

(d) Beginning January 1, 2030, the department may adopt a rule to require that the provisions of this section apply in the jurisdictions identified in (b) and (c) of this subsection, but only if the department determines that the goals established in section 101(1) of this act have not or will not be achieved.

(4) For the purposes of this section, "organic materials management" means management of organic materials through composting, anaerobic digestion, vermiculture, black soldier fly, or similar technologies.

**Sec.**  RCW 70A.205.040 and 2010 c 154 s 2 are each amended to read as follows:

(1) Each county within the state, in cooperation with the various cities located within such county, shall prepare a coordinated, comprehensive solid waste management plan. Such plan may cover two or more counties. The purpose is to plan for solid waste and materials reduction, collection, and handling and management services and programs throughout the state, as designed to meet the unique needs of each county and city in the state. When updating a solid waste management plan developed under this chapter, after June 10, 2010, local comprehensive plans must consider and plan for the following handling methods or services:

(a) Source separation of recyclable materials and products, organic materials, and wastes by generators;

(b) Collection of source separated materials;

(c) Handling and proper preparation of materials for reuse or recycling;

(d) Handling and proper preparation of organic materials for ((~~composting or anaerobic digestion~~)) organic materials management; and

(e) Handling and proper disposal of nonrecyclable wastes.

(2) When updating a solid waste management plan developed under this chapter, after June 10, 2010, each local comprehensive plan must, at a minimum, consider methods that will be used to address the following:

(a) Construction and demolition waste for recycling or reuse;

(b) Organic material including yard debris, food waste, and food contaminated paper products for ((~~composting or anaerobic digestion~~)) organic materials management;

(c) Recoverable paper products for recycling;

(d) Metals, glass, and plastics for recycling; and

(e) Waste reduction strategies.

(3)(a) When newly developing, updating, or amending a solid waste management plan developed under this chapter, after July 1, 2022, each local comprehensive plan must consider the transition to the requirements of section 102 of this act, and must identify:

(i) The priority areas within the jurisdiction for the establishment of organic materials management facilities. Priority areas must be in industrial zones and may not be located in overburdened communities identified by the department of health under chapter 70A.02 RCW; and

(ii) Organic materials management facility volumetric capacity required to manage the jurisdiction's organic materials in a manner consistent with the goals of section 101 of this act.

(b) When newly developing, updating, or amending a solid waste management plan developed under this chapter, after January 1, 2027, each local comprehensive plan must be consistent with the requirements of section 102 of this act.

(4) Each city shall:

(a) Prepare and deliver to the county auditor of the county in which it is located its plan for its own solid waste management for integration into the comprehensive county plan;

(b) Enter into an agreement with the county pursuant to which the city shall participate in preparing a joint city-county plan for solid waste management; or

(c) Authorize the county to prepare a plan for the city's solid waste management for inclusion in the comprehensive county plan.

((~~(4)~~)) (5) Two or more cities may prepare a plan for inclusion in the county plan. With prior notification of its home county of its intent, a city in one county may enter into an agreement with a city in an adjoining county, or with an adjoining county, or both, to prepare a joint plan for solid waste management to become part of the comprehensive plan of both counties.

((~~(5)~~)) (6) After consultation with representatives of the cities and counties, the department shall establish a schedule for the development of the comprehensive plans for solid waste management. In preparing such a schedule, the department shall take into account the probable cost of such plans to the cities and counties.

((~~(6)~~)) (7) Local governments shall not be required to include a hazardous waste element in their solid waste management plans.

**PART 2**

**Requirements for Organics Management by Businesses**

NEW SECTION. **Sec.**  A new section is added to chapter 70A.205 RCW to read as follows:

(1)(a) Beginning July 1, 2025, and each July 1st thereafter, the department must determine which counties and any cities preparing independent solid waste management plans:

(i) Provide for businesses to be serviced by providers that collect food waste and organic waste for delivery to solid waste facilities that provide for the organic materials management of organic waste and food waste; and

(ii) Are serviced by solid waste facilities that provide for the organic materials management of organic waste and food waste and have capacity to accept increased volumes of organic materials deliveries.

(b)(i) The department must determine and designate that the restrictions of this section apply to businesses in a jurisdiction unless the department determines that the businesses in some or all portions of the city or county have:

(A) No available businesses that collect and deliver organic materials to solid waste facilities that provide for the organic materials management of organic waste and food waste; or

(B) No available capacity at the solid waste facilities to which businesses that collect and deliver organic materials could feasibly and economically deliver organic materials from the jurisdiction.

(ii)(A) In the event that a county or city provides written notification indicating that the criteria of (b)(i)(A) of this subsection are met, then the restrictions of this section apply only in those portions of the jurisdiction that have available service-providing businesses.

(B) In the event that a county or city provides written notification indicating that the criteria of (b)(i)(B) of this subsection are met, then the restrictions of this section do not apply to the jurisdiction.

(c) The department must make the result of the annual determinations required under this section available on its website.

(d) The requirements of this section may be enforced by jurisdictional health departments consistent with this chapter.

(2) Counting only wastes that are not managed on-site by businesses for purposes of determining waste volumes:

(a) Beginning January 1, 2024, a business that generates at least eight cubic yards of organic waste per week must arrange for organic materials management services specifically for organic waste;

(b) Beginning January 1, 2025, a business that generates at least four cubic yards of organic waste per week must arrange for organic materials management services specifically for organic waste; and

(c) Beginning January 1, 2026, a business that generates at least four cubic yards of solid waste per week shall arrange for organic materials management services specifically for organic waste, unless the department determines, by rule, that additional reductions in the landfilling of organic materials would be more appropriately and effectively achieved, at reasonable cost to regulated businesses, through the establishment of a different volumetric threshold of solid waste or organic waste than the threshold of four cubic yards of solid waste per week.

(3) A business may fulfill the requirements of this section by:

(a) Source separating organic waste from other waste and subscribing to a service that includes organic waste collection and organic materials management;

(b) Managing its organic waste on-site or self-haul its own organic waste for organic materials management; or

(c) Qualifying for exclusion from the requirements of this section consistent with subsection (1)(b) of this section.

(4) A business generating organic waste shall arrange for the services required by this section in a manner that is consistent with state and local laws and requirements applicable to the collection, handling, or recycling of solid and organic waste.

(5) When arranging for gardening or landscaping services, the contract or work agreement between a business subject to this section and a gardening or landscaping service must require that the organic waste generated by those services be managed in compliance with this chapter.

(6)(a) This section does not limit the authority of a local governmental agency to adopt, implement, or enforce a local organic waste recycling requirement, or a condition imposed upon a self-hauler, that is more stringent or comprehensive than the requirements of this chapter.

(b) This section does not modify, limit, or abrogate in any manner any of the following:

(i) A franchise granted or extended by a city, county, city and county, or other local governmental agency;

(ii) A contract, license, certificate, or permit to collect solid waste previously granted or extended by a city, county, city and county, or other local governmental agency;

(iii) The existing right of a business to sell or donate its organic materials; and

(iv) A certificate of convenience and necessity issued to a solid waste collection company under chapter 81.77 RCW.

(c) Nothing in this section modifies, limits, or abrogates the authority of a local jurisdiction with respect to land use, zoning, or facility siting decisions by or within that local jurisdiction.

(d) Nothing in this section changes or limits the authority of the Washington utilities and transportation commission to regulate collection of solid waste, including curbside collection of residential recyclable materials, nor does this section change or limit the authority of a city or town to provide the service itself or by contract under RCW 81.77.020.

(7) The definitions in this subsection apply throughout this section unless the context clearly indicates otherwise.

(a)(i) "Business" means a commercial or public entity including, but not limited to, a firm, partnership, proprietorship, joint stock company, corporation, or association that is organized as a for-profit or nonprofit entity.

(ii) "Business" does not include a multifamily residential entity.

(b) "Food waste" has the same meaning as defined in RCW 70A.205.715.

(c) "Organic materials" means any solid waste that is a biological substance of plant or animal origin capable of microbial degradation. Organic materials include, but are not limited to, manure, yard debris, food waste, food processing wastes, wood waste, and garden wastes.

(d) "Organic materials management" means management of organic materials through composting, anaerobic digestion, vermiculture, black soldier fly, or similar technologies.

**PART 3**

**Updates to the Washington Good Samaritan Act**

**Sec.**  RCW 69.80.031 and 1994 c 299 s 36 are each amended to read as follows:

(1) This section may be cited as the "good samaritan food donation act."

(2) ((~~As used in this section:~~)) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Apparently fit grocery product" means a grocery product that meets ((~~all quality and~~)) safety and safety-related labeling standards imposed by federal, state, and local laws and regulations even though the product may not be readily marketable due to appearance, age, freshness, grade, size, surplus, passage of a date on a date label other than a safety or safety-related labeling of a date, or other conditions.

(b) "Apparently wholesome food" means food that meets ((~~all quality and~~)) safety and safety-related labeling standards imposed by federal, state, and local laws and regulations even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, passage of a date on a date label other than a safety or safety-related labeling of a date, or other conditions.

(c) "Donate" means to give without requiring anything of monetary value from the recipient, except that the term shall include giving by a nonprofit organization to another nonprofit organization, notwithstanding that the donor organization has charged a nominal fee to the donee organization, if the ultimate recipient or user is not required to give anything of monetary value or is charged only a good samaritan reduced price.

(d) "Food" means a raw, cooked, processed, or prepared edible substance, ice, beverage, or ingredient used or intended for use in whole or in part for human consumption.

(e) "Gleaner" means a person who harvests for free distribution to the needy, or for donation to a nonprofit organization for ultimate distribution to the needy, an agricultural crop that has been donated by the owner.

(f) "Good samaritan reduced price" means the price of an apparently wholesome food or an apparently fit grocery product that is an amount not greater than the cost of handling, administering, and distributing the apparently wholesome food or apparently fit grocery product.

(g) "Grocery product" means a nonfood grocery product, including a disposable paper or plastic product, household cleaning product, laundry detergent, cleaning product, or miscellaneous household item.

((~~(g)~~)) (h) "Gross negligence" means voluntary and conscious conduct by a person with knowledge, at the time of the conduct, that the conduct is likely to be harmful to the health or well-being of another person.

((~~(h)~~)) (i) "Intentional misconduct" means conduct by a person with knowledge, at the time of the conduct, that the conduct is harmful to the health or well-being of another person.

((~~(i)~~)) (j) "Nonprofit organization" means an incorporated or unincorporated entity that:

(i) Is operating for religious, charitable, or educational purposes; and

(ii) Does not provide net earnings to, or operate in any other manner that inures to the benefit of, any officer, employee, or shareholder of the entity.

((~~(j)~~)) (k) "Person" means an individual, corporation, partnership, organization, association, or governmental entity, including a retail grocer, wholesaler, hotel, motel, manufacturer, restaurant, caterer, farmer, and nonprofit food distributor or hospital. In the case of a corporation, partnership, organization, association, or governmental entity, the term includes an officer, director, partner, deacon, trustee, councilmember, or other elected or appointed individual responsible for the governance of the entity.

(l) "Qualified direct donor" means any person required to obtain a food establishment permit under chapter 246-215 WAC, as it existed as of January 1, 2022, including a retail grocer, wholesaler, agricultural producer, restaurant, caterer, school food authority, or institution of higher education as defined in RCW 28B.10.016.

(m)(i) "Safety and safety-related labeling" means a marking intended to communicate information to a consumer related to a food product's safety. "Safety and safety-related labeling" includes any marking that federal or state law requires to be affixed to a food product including, but not limited to, markings placed on infant formula consistent with 21 C.F.R. Sec. 107.20, as that regulation existed as of January 1, 2021.

(ii) "Safety and safety-related labeling" does not include a pull date required to be placed on perishable packaged food under RCW 15.130.300 or a "best by," "best if used by," "use by," or "sell by" date or similarly phrased date intended to communicate information to a consumer regarding the freshness or quality of a food product.

(3)(a) A person or gleaner is not subject to civil or criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food or an apparently fit grocery product that the person or gleaner donates in good faith or sells at a good samaritan reduced price to a nonprofit organization for ultimate sale at a good samaritan reduced price, donation, or other distribution to needy individuals, except that this subsection does not apply to an injury to or death of an ultimate user or recipient of the food or grocery product that results from an act or omission of the donor constituting gross negligence or intentional misconduct.

(b) A qualified direct donor may donate food directly to end recipients for consumption. A qualified direct donor is not subject to civil or criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food or an apparently fit grocery product that the qualified direct donor donates in good faith or sells at a good samaritan reduced price to a needy individual. The donation of nonperishable food that is fit for human consumption, but that has exceeded the labeled shelf-life date recommended by the manufacturer, is an activity covered by the exclusion from civil or criminal liability under this section. The donation of perishable food that is fit for human consumption, but that has exceeded the labeled shelf-life date recommended by the manufacturer, is an activity covered by the exclusion from civil or criminal liability under this section if the person that distributes the food to the end recipient makes a good faith evaluation that the food to be donated is wholesome.

(4) A person who allows the collection or gleaning of donations on property owned or occupied by the person by gleaners, or paid or unpaid representatives of a nonprofit organization, for ultimate distribution to needy individuals is not subject to civil or criminal liability that arises due to the injury or death of the gleaner or representative, except that this subsection does not apply to an injury or death that results from an act or omission of the person constituting gross negligence or intentional misconduct.

(5) If some or all of the donated food and grocery products do not meet ((~~all quality and~~)) safety and safety-related labeling standards imposed by federal, state, and local laws and regulations, the person or gleaner who donates the food and grocery products is not subject to civil or criminal liability in accordance with this section if the nonprofit organization that receives the donated food or grocery products:

(a) Is informed by the donor of the distressed or defective condition of the donated food or grocery products;

(b) Agrees to recondition the donated food or grocery products to comply with all the ((~~quality and~~)) safety and safety-related labeling standards prior to distribution; and

(c) Is knowledgeable of the standards to properly recondition the donated food or grocery product.

(6) This section may not be construed to create liability.

**PART 4**

**Washington Center for Sustainable Food Management**

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Center" means the Washington center for sustainable food management.

(2) "Department" means the department of ecology.

(3) "Plan" means the use food well Washington plan developed under RCW 70A.205.715.

NEW SECTION. **Sec.**  (1) The Washington center for sustainable food management is established within the department, to begin operations by January 1, 2024.

(2) The purpose of the center is to help coordinate statewide food waste reduction.

(3) The center may perform the following activities:

(a) Coordinate the implementation of the plan;

(b) Draft plan updates and measure progress towards actions, strategies, and the statewide goals established in section 101 of this act and RCW 70A.205.715(1);

(c) Maintain a website with current food waste reduction information and guidance for food service establishments, consumers, food processors, hunger relief organizations, and other sources of food waste;

(d) Provide staff support to multistate food waste reduction initiatives in which the state is participating;

(e) Maintain the consistency of the plan and other food waste reduction activities with the work of the Washington state conservation commission's food policy forum;

(f) Facilitate and coordinate public-private and nonprofit partnerships focused on food waste reduction, including through voluntary working groups;

(g) Collaborate with federal, state, and local government partners on food waste reduction initiatives;

(h) Develop and maintain maps or lists of locations of the food systems of Washington that identify food flows, where waste occurs, and opportunities to prevent food waste;

(i) Collect and maintain data on food waste and wasted food in a manner that is generally consistent with the methods of collecting and maintaining such data used by federal agencies or in other jurisdictions, or both, to the greatest extent practicable;

(j) Research and develop emerging organics and food waste reduction markets;

(k)(i) Develop and maintain statewide food waste reduction and food waste contamination reduction campaigns, in consultation with other state agencies and other stakeholders, including the development of waste prevention and food waste recovery promotional materials for distribution. These promotional materials may include online information, newsletters, bulletins, or handouts that inform food service establishment operators about the protections from civil and criminal liability under federal law and under RCW 69.80.031 when donating food; and

(ii) Develop guidance in support of distribution of promotional materials, including by:

(A) Local health officers, at no cost to regulated food service establishments, including as part of normal, routine inspections of food service establishments; and

(B) State agencies, including the department of health and the department of agriculture, in conjunction with their statutory roles and responsibilities in regulating, monitoring, and supporting safe food supply chains and systems; and

(l) Distribute and monitor grants dedicated to food waste prevention, rescue, and recovery.

(4) The department may enter into an interagency agreement with the department of health, the department of agriculture, or other state agencies as necessary to fulfill the responsibilities of the center.

(5) The department may adopt any rules necessary to implement and enforce this chapter including, but not limited to, measures for the center's performance.

NEW SECTION. **Sec.**  (1) The center must, by January 1, 2025, and in consultation with the office of the attorney general, research and adopt several model ordinances for optional use by counties and cities that provide for model mechanisms for commercial solid waste collection and disposal that are designed, in part, to establish a financial disincentive or other disincentives for the generation of organic waste and for the ultimate disposal of organic materials in landfills. The model ordinances must be designed to provide options that might be preferred by jurisdictions of different sizes and consider other key criteria applicable to local solid waste management circumstances.

(2)(a) The department must review the model ordinances created in this section under the provisions of chapter 43.21C RCW.

(b) A county or city that adopts a model ordinance created by the center under this section and that has been reviewed by the department under the provisions of chapter 43.21C RCW is not required to review the ordinance under the provisions of chapter 43.21C RCW.

(3) No city, town, or county is required to adopt the model ordinances created in this section.

NEW SECTION. **Sec.**  A new section is added to chapter 43.21C RCW to read as follows:

Amendments to regulations and other nonproject actions taken by a city or county to adopt or implement the model ordinance created by the Washington center for sustainable food management under section 403 of this act is not subject to the requirements of this chapter.

NEW SECTION. **Sec.**  A new section is added to chapter 70A.205 RCW to read as follows:

(1) In order to obtain data as necessary to support the goals of the Washington center for sustainable food management created in section 402 of this act and to achieve the goals of RCW 70A.205.715(1), the department may establish a voluntary reporting protocol for the receipt of reports by businesses that donate food under RCW 69.80.031 and recipients of the donated food, and may encourage the use of this voluntary reporting protocol by the businesses and recipients. The department may also request that a donating business or recipient of donated food provide information to the department regarding the volumes, types, and timing of food managed by the facility, and food waste and wasted food generated by the facility. To the extent practicable, the department must seek to obtain information under this section in a manner compatible with any information reported to the department of agriculture under RCW 43.23.290, and in a manner that minimizes the reporting and information-provision burdens of donating businesses and recipients.

(2) For the purposes of this subsection, "food waste" and "wasted food" have the same meaning as defined in RCW 70A.205.715.

**Sec.**  RCW 69.80.040 and 1983 c 241 s 4 are each amended to read as follows:

The department of agriculture shall maintain an information and referral service for persons and organizations that have notified the department of their desire to participate in the food donation program under this chapter. The department must coordinate with the department of ecology to ensure that the information and referral service required under this section is implemented in a manner consistent with the activities of sections 402 and 405 of this act.

**PART 5**

**Funding and Incentives for Methane Emissions Reduction Activities Associated with Organic Materials Management**

**Sec.**  RCW 89.08.615 and 2020 c 351 s 3 are each amended to read as follows:

(1) The commission shall develop a sustainable farms and fields grant program in consultation with the department of agriculture, Washington State University, and the United States department of agriculture natural resources conservation service.

(2) As funding allows, the commission shall distribute funds, as appropriate, to conservation districts and other public entities to help implement the projects approved by the commission.

(3) No more than ((~~fifteen~~)) 15 percent of the funds may be used by the commission to develop, or to consult or contract with private or public entities, such as universities or conservation districts, to develop:

(a) An educational public awareness campaign and outreach about the sustainable farm and field program; or

(b) The grant program, including the production of analytical tools, measurement estimation and verification methods, cost-benefit measurements, and public reporting methods.

(4) No more than five percent of the funds may be used by the commission to cover the administrative costs of the program.

(5) No more than ((~~twenty~~)) 20 percent of the funds may be awarded to any single grant applicant.

(6) Allowable uses of grant funds include:

(a) Annual payments to enrolled participants for successfully delivered carbon storage or reduction;

(b) Up-front payments for contracted carbon storage;

(c) Down payments on equipment;

(d) Purchases of equipment;

(e) Purchase of seed, seedlings, spores, animal feed, and amendments;

(f) Services to landowners, such as the development of site-specific conservation plans to increase soil organic levels or to increase usage of precision agricultural practices, or design and implementation of best management practices to reduce livestock emissions; ((~~and~~))

(g) The purchase of compost spreading equipment, or financial assistance to farmers to purchase compost spreading equipment, for the annual use for at least three years of volumes of compost determined by the commission to be significant from materials composted at a site that is not owned or operated by the farmer; and

(h) Other equipment purchases or financial assistance deemed appropriate by the commission to fulfill the intent of RCW 89.08.610 through 89.08.635.

(7) Grant applications are eligible for costs associated with technical assistance.

(8) Conservation districts and other public entities may apply for a single grant from the commission that serves multiple farmers.

(9) Grant applicants may apply to share equipment purchased with grant funds. Applicants for equipment purchase grants issued under this grant program may be farm, ranch, or aquaculture operations coordinating as individual businesses or as formal cooperative ventures serving farm, ranch, or aquaculture operations. Conservation districts, separately or jointly, may also apply for grant funds to operate an equipment sharing program.

(10) No contract for carbon storage or changes to management practices may exceed ((~~twenty-five~~)) 25 years. Grant contracts that include up-front payments for future benefits must be conditioned to include penalties for default due to negligence on the part of the recipient.

(11) The commission shall attempt to achieve a geographically fair distribution of funds across a broad group of crop types, soil management practices, and farm sizes.

(12) Any applications involving state lands leased from the department of natural resources must include the department's approval.

NEW SECTION. **Sec.**  (1)(a) Subject to the availability of amounts appropriated for this specific purpose, the department of agriculture must establish and implement a three-year compost reimbursement pilot program to reimburse farming operations in the state for purchasing and using compost products that were not generated by the farming operation, including transportation, equipment, spreading, and labor costs. The grant reimbursements under the pilot program begin July 1, 2023, and conclude June 30, 2026.

(b) For the purposes of this program, "farming operation" means: A commercial agricultural, silvicultural, or aquacultural facility or pursuit, including the care and production of livestock and livestock products, poultry and poultry products, apiary products, and plant and animal production for nonfood uses; the planting, cultivating, harvesting, and processing of crops; and the farming or ranching of any plant or animal species in a controlled salt, brackish, or freshwater environment.

(2) To be eligible to participate in the reimbursement pilot program, a farming operation must complete an eligibility review with the department of agriculture prior to transporting or applying any compost products for which reimbursement is sought under this section. The purpose of the review is for the department of agriculture to ensure that the proposed transport and application of compost products is consistent with the department's agricultural pest control rules established under chapter 17.24 RCW. A farming operation must also verify that it will allow soil sampling to be conducted by the department of agriculture upon request during the duration of the pilot program as necessary to establish a baseline of soil quality and carbon storage and for subsequent department of agriculture evaluations to assist the department's reporting requirements under subsection (9) of this section.

(3) The department of agriculture must create a form for eligible farming operations to apply for cost reimbursement for costs from purchasing and using compost from facilities with solid waste handling permits, including transportation, equipment, spreading, and labor costs. All applications for cost reimbursement must be submitted on the form along with invoices, receipts, or other documentation acceptable to the department of the costs of purchasing and using compost products for which the applicant is requesting reimbursement, as well as a brief description of what each purchased item will be used for. The department of agriculture may request that an applicant provide information to verify the source, size, sale weight, or amount of compost products purchased and the cost of transportation, equipment, spreading, and labor. The applicant must also declare that it is not seeking reimbursement for purchase or labor costs for:

(a) Its own compost products; or

(b) Compost products that it has transferred, or intends to transfer, to another individual or entity, whether or not for compensation.

(4) A farming operation may submit only one application per fiscal year for purchases made and usage costs incurred during the fiscal year that begins on July 1st and ends on June 30th of each fiscal year in which the pilot program is in effect. Applications for reimbursement must be filed before the end of the fiscal year in which purchases were made and usage costs incurred.

(5) The department of agriculture must distribute reimbursement funds, subject to the following limitations:

(a) A farming operation is not eligible to receive reimbursement if the farming operation's application was not found eligible for reimbursement by the department of agriculture prior to transport or use under subsection (2) of this section;

(b) A farming operation is not eligible to receive reimbursement for more than 50 percent of the costs it incurs each fiscal year for the purchase and use of compost products, including transportation, equipment, spreading, and labor costs;

(c) A farming operation is not eligible to receive more than $10,000 per fiscal year;

(d) A farming operation is not eligible to receive reimbursement for its own compost products or compost products that it has transferred, or intends to transfer, to another individual or entity, whether or not for compensation; and

(e) A farming operation is not eligible to receive reimbursement for compost products that were not purchased from a facility with a solid waste handling permit.

(6) The applicant shall indemnify and hold harmless the state and its officers, agents, and employees from all claims arising out of or resulting from the compost products purchased that are subject to the compost reimbursement pilot program under this section.

(7) There is established within the department of agriculture a compost reimbursement pilot program manager position. The compost reimbursement pilot program manager must possess knowledge and expertise in the area of program management necessary to carry out the duties of the position, which are to:

(a) Facilitate the division and distribution of available costs for reimbursement; and

(b) Manage the day-to-day coordination of the compost reimbursement pilot program.

(8) Any action taken by the department of agriculture pursuant to this section is exempt from the rule-making requirements of chapter 34.05 RCW.

(9) In compliance with RCW 43.01.036, the department of agriculture must submit an annual report to the appropriate committees of the legislature by January 15th of each year of the program, with a final report due January 15, 2026. The report must include:

(a) The amount of compost for which reimbursement was sought under the program;

(b) The qualitative or quantitative effects of the program on soil quality and carbon storage; and

(c) An evaluation of the benefits and costs to the state of continuing, expanding, or furthering the strategies explored in the pilot program.

(10) This section expires June 30, 2027.

**Sec.**  RCW 43.155.020 and 2017 3rd sp.s. c 10 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Board" means the public works board created in RCW 43.155.030.

(2) "Capital facility plan" means a capital facility plan required by the growth management act under chapter 36.70A RCW or, for local governments not fully planning under the growth management act, a plan required by the public works board.

(3) "Department" means the department of commerce.

(4) "Financing guarantees" means the pledge of money in the public works assistance account, or money to be received by the public works assistance account, to the repayment of all or a portion of the principal of or interest on obligations issued by local governments to finance public works projects.

(5) "Local governments" means cities, towns, counties, special purpose districts, and any other municipal corporations or quasi-municipal corporations in the state excluding school districts and port districts.

(6) "Public works project" means a project of a local government for the planning, acquisition, construction, repair, reconstruction, replacement, rehabilitation, or improvement of streets and roads, bridges, water systems, or storm and sanitary sewage systems, lead remediation of drinking water systems, and solid waste facilities, including recycling facilities and composting and other organic materials management facilities. A planning project may include the compilation of biological, hydrological, or other data on a county, drainage basin, or region necessary to develop a base of information for a capital facility plan.

(7) "Solid waste or recycling project" means remedial actions necessary to bring abandoned or closed landfills into compliance with regulatory requirements and the repair, restoration, and replacement of existing solid waste transfer, recycling facilities, and landfill projects limited to the opening of landfill cells that are in existing and permitted landfills.

(8) "Technical assistance" means training and other services provided to local governments to: (a) Help such local governments plan, apply, and qualify for loans, grants, and financing guarantees from the board, and (b) help local governments improve their ability to plan for, finance, acquire, construct, repair, replace, rehabilitate, and maintain public facilities.

(9) "Value planning" means a uniform approach to assist in decision making through systematic evaluation of potential alternatives to solving an identified problem.

**PART 6**

**Organic Materials Management Facility Siting**

**Sec.**  RCW 36.70.330 and 1985 c 126 s 3 are each amended to read as follows:

The comprehensive plan shall consist of a map or maps, and descriptive text covering objectives, principles and standards used to develop it, and shall include each of the following elements:

(1) A land use element which designates the proposed general distribution and general location and extent of the uses of land for agriculture, housing, commerce, industry, recreation, education, public buildings and lands, and other categories of public and private use of land, including a statement of the standards of population density and building intensity recommended for the various areas in the jurisdiction and estimates of future population growth in the area covered by the comprehensive plan, all correlated with the land use element of the comprehensive plan. The land use element shall also provide for protection of the quality and quantity of groundwater used for public water supplies and shall review drainage, flooding, and stormwater runoff in the area and nearby jurisdictions and provide guidance for corrective actions to mitigate or cleanse those discharges that pollute Puget Sound or waters entering Puget Sound. Development regulations to implement comprehensive plans that are newly developed, updated, or amended after January 1, 2023, must allow for the siting of organic materials management facilities in the areas identified in RCW 70A.205.040(3)(a)(i) to the extent necessary to provide for the establishment of the organic materials management volumetric capacity identified under RCW 70A.205.040(3)(a)(ii);

(2) A circulation element consisting of the general location, alignment and extent of major thoroughfares, major transportation routes, trunk utility lines, and major terminal facilities, all of which shall be correlated with the land use element of the comprehensive plan;

(3) Any supporting maps, diagrams, charts, descriptive material and reports necessary to explain and supplement the above elements.

NEW SECTION. **Sec.**  A new section is added to chapter 36.70A RCW to read as follows:

Development regulations to implement comprehensive plans that are newly developed, updated, or amended after January 1, 2023, must allow for the siting of organic materials management facilities in the areas identified in RCW 70A.205.040(3)(a)(i) to the extent necessary to provide for the establishment of the organic materials management volumetric capacity identified under RCW 70A.205.040(3)(a)(ii).

NEW SECTION. **Sec.**  A new section is added to chapter 35.63 RCW to read as follows:

Development regulations to implement comprehensive plans under RCW 35.63.100 that are newly developed, updated, or amended after January 1, 2023, must allow for the siting of organic materials management facilities in the areas identified in RCW 70A.205.040(3)(a)(i) to the extent necessary to provide for the establishment of the organic materials management volumetric capacity identified under RCW 70A.205.040(3)(a)(ii).

NEW SECTION. **Sec.**  A new section is added to chapter 35A.63 RCW to read as follows:

Development regulations to implement comprehensive plans required under RCW 35A.63.060 that are newly developed, updated, or amended after January 1, 2023, must allow for the siting of organic materials management facilities in the areas identified in RCW 70A.205.040(3)(a)(i) to the extent necessary to provide for the establishment of the organic materials management volumetric capacity identified under RCW 70A.205.040(3)(a)(ii).

**PART 7**

**Organic Materials Procurement**

NEW SECTION. **Sec.**  A new section is added to chapter 43.19A RCW to read as follows:

(1) By January 1, 2023, each local government shall:

(a) Adopt a compost procurement ordinance to implement RCW 43.19A.120; and

(b) Develop a compost procurement plan to meet RCW 43.19A.120.

(2) Local governments shall give priority to purchasing compost products from companies that produce compost products locally, are certified by a nationally recognized organization, and produce compost products that are derived from municipal solid waste compost programs and meet quality standards comparable to standards adopted by the department of transportation or adopted by rule by the department of ecology.

(3) Local governments may enter into collective purchasing agreements if doing so is more cost-effective or efficient.

(4) Nothing in this section requires a compost processor to:

(a) Enter into a purchasing agreement with a local government;

(b) Sell finished compost to meet this requirement; or

(c) Accept or process food waste or compostable products.

**Sec.**  RCW 39.30.040 and 2013 c 24 s 1 are each amended to read as follows:

(1) Whenever a unit of local government is required to make purchases from the lowest bidder or from the supplier offering the lowest price for the items desired to be purchased, the unit of local government may, at its option when awarding a purchase contract, take into consideration tax revenue it would receive from purchasing the supplies, materials, or equipment from a supplier located within its boundaries. The unit of local government must award the purchase contract to the lowest bidder after such tax revenue has been considered. However, any local government may allow for preferential purchase of products made from recycled materials or products that may be recycled or reused. Any local government may allow for preferential purchase of compost to meet the requirements of RCW 43.19A.120. Any unit of local government which considers tax revenue it would receive from the imposition of taxes upon a supplier located within its boundaries must also consider tax revenue it would receive from taxes it imposes upon a supplier located outside its boundaries.

(2) A unit of local government may award a contract to a bidder submitting the lowest bid before taxes are applied. The unit of local government must provide notice of its intent to award a contract based on this method prior to bids being submitted. For the purposes of this subsection (2), "taxes" means only those taxes that are included in "tax revenue" as defined in this section.

(3) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Tax revenue" means sales taxes that units of local government impose upon the sale of supplies, materials, or equipment from the supplier to units of local government, and business and occupation taxes that units of local government impose upon the supplier that are measured by the gross receipts of the supplier from the sale.

(b) "Unit of local government" means any county, city, town, metropolitan municipal corporation, public transit benefit area, county transportation authority, or other municipal or quasi-municipal corporation authorized to impose sales and use taxes or business and occupation taxes.

NEW SECTION. **Sec.**  A new section is added to chapter 43.19A RCW to read as follows:

A contract by a governmental unit must require the use of compost products to the maximum extent economically feasible to meet the requirements established in RCW 43.19A.120.

**PART 8**

**Product Degradability Labeling**

**Sec.**  RCW 70A.455.010 and 2019 c 265 s 1 are each amended to read as follows:

(1) The legislature finds and declares that it is the public policy of the state that:

(a) Environmental marketing claims for plastic products, whether implicit or implied, should adhere to uniform and recognized standards for "compostability" and "biodegradability," since misleading, confusing, and deceptive labeling can negatively impact local composting programs and compost processors. Plastic products marketed as being "compostable" should be readily and easily identifiable as meeting these standards;

(b) Legitimate and responsible packaging and plastic product manufacturers are already properly labeling their compostable products, but many manufacturers are not. Not all compost facilities and their associated processing technologies accept or are required to accept compostable packaging as feedstocks. However, implementing a standardized system and test methods may create the ability for them to take these products in the future.

(2) Therefore, it is the intent of the legislature to authorize the ((~~state's attorney general and local governments~~)) department of ecology, cities, and counties to pursue false or misleading environmental claims and "greenwashing" for plastic products claiming to be "compostable" or "biodegradable" when in fact they are not.

**Sec.**  RCW 70A.455.020 and 2019 c 265 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "ASTM" means the American society for testing and materials.

(2) "Biodegradable mulch film" means film plastic used as a technical tool in commercial farming applications that biodegrades in soil after being used, and:

(a) The film product fulfills plant growth and regulated metals requirements of ASTM D6400; and

(b)(i) Meets the requirements of Vincotte's "OK Biodegradable Soil" certification scheme, as that certification existed as of January 1, 2019;

(ii) At ambient temperatures and in soil, shows at least ((~~ninety~~)) 90 percent biodegradation absolute or relative to microcrystalline cellulose in less than two years' time, tested according to ISO 17556 or ASTM 5988 standard test methods, as those test methods existed as of January 1, 2019; or

(iii) Meets the requirements of EN 17033 "plastics-biodegradable mulch films for use in agriculture and horticulture" as it existed on January 1, 2019.

(3) "Federal trade commission guides" means the United States federal trade commission's guides for the use of environmental marketing claims (Part 260, commencing at section 260.1), compostability claims, including section 260.8, and degradation claims (subchapter B of chapter I of Title 16 of the Code of Federal Regulations), as those guides existed as of January 1, 2019.

(4) "Film product" means a bag, sack, wrap, or other sheet film product.

(5) "Food service product" ((~~means a product including, but not limited to, containers, plates, bowls, cups, lids, meat trays, straws, deli rounds, cocktail picks, splash sticks, condiment packaging, clam shells and other hinged or lidded containers, sandwich wrap, utensils, sachets, portion cups, and other food service products that are intended for one-time use and used for food or drink offered for sale or use~~)) has the same meaning as defined in RCW 70A.245.010.

(6) "Manufacturer" means a person, firm, association, partnership, or corporation that produces a product.

(7) "Person" means individual, firm, association, copartnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever.

(8) "Plastic food packaging and food service products" means food packaging and food service products that is composed of:

(a) Plastic; or

(b) Fiber or paper with a plastic coating, window, component, or additive.

(9) "Plastic product" means a product made of plastic, whether alone or in combination with another material including, but not limited to, paperboard. A plastic product includes, but is not limited to, any of the following:

(a) A product or part of a product that is used, bought, or leased for use by a person for any purpose;

(b) A package or a packaging component including, but not limited to, packaging peanuts;

(c) A film product; or

(d) Plastic food packaging and food service products.

(10) "Standard specification" means either:

(a) ASTM D6400 – standard specification labeling of plastics designed to be aerobically composted in municipal or industrial facilities, as it existed as of January 1, 2019; or

(b) ASTM D6868 – standard specification for labeling of end items that incorporate plastics and polymers as coatings or additives with paper and other substrates designed to be aerobically composted in municipal or industrial facilities, as it existed as of January 1, 2019.

(11)((~~(a)~~)) "Supplier" means ((~~a person, firm, association, partnership, company, or corporation that sells, offers for sale, offers for promotional purposes, or takes title to a product.~~

~~(b) "Supplier" does not include a person, firm, association, partnership, company, or corporation that sells products to end users as a retailer~~)) the following person responsible for compliance with this chapter for a product sold, offered for sale, or distributed in or into this state:

(a) If the product is sold under the manufacturer's own brand or lacks identification of a brand, the producer is the person who manufactures the product;

(b) If the product is manufactured by a person other than the brand owner, the producer is the person who is the licensee of a brand or trademark under which a product is sold, offered for sale, or distributed in or into this state, whether or not the trademark is registered in this state, unless the manufacturer or brand owner of the product has agreed to accept responsibility under this chapter; or

(c) If there is no person described in (a) and (b) of this subsection over whom the state can constitutionally exercise jurisdiction, the producer is the person who imports or distributes the product in or into the state.

(12) "Utensil" means a product designed to be used by a consumer to facilitate the consumption of food or beverages, including knives, forks, spoons, cocktail picks, chopsticks, splash sticks, and stirrers.

(13) "Department" means the department of ecology.

(14)(a) "Produce sticker" means a label or marking directly affixed, or designed to be affixed, to an item intended for human consumption, including the means of affixing the label or marking to an item.

(b) "Produce sticker" does not include a container primarily intended to market, transport, handle, or protect a food product.

**Sec.**  RCW 70A.455.040 and 2019 c 265 s 4 are each amended to read as follows:

(1)(a) A product labeled as "compostable" that is sold, offered for sale, or distributed for use in Washington by a supplier or manufacturer must:

(i) Meet ASTM standard specification D6400;

(ii) Meet ASTM standard specification D6868; or

(iii) Be comprised of wood, which includes renewable wood, or fiber-based substrate only;

(b) A product described in (a)(i) or (ii) of this subsection must:

(i) Meet labeling requirements established under the United States federal trade commission's guides; and

(ii) Feature labeling that:

(A) Meets industry standards for being distinguishable upon quick inspection in both public sorting areas and in processing facilities;

(B) Uses a logo indicating the product has been certified by a recognized third-party independent verification body as meeting the ASTM standard specification; ((~~and~~))

(C) Displays the word "compostable," where possible, indicating the product has been tested by a recognized third-party independent body and meets the ASTM standard specification; and

(D) Uses green, beige, or brown labeling, color striping, or other green, beige, or brown symbols, colors, tinting, marks, or design patterns that help differentiate compostable items from noncompostable materials.

(2) ((~~A compostable product described in subsection (1)(a)(i) or (ii) of this section must be considered compliant with the requirements of this section if it:~~

~~(a) Has green or brown labeling;~~

~~(b) Is labeled as compostable; and~~

~~(c) Uses distinctive color schemes, green or brown color striping, or other adopted symbols, colors, marks, or design patterns that help differentiate compostable items from noncompostable materials~~)) The requirements of this section do not apply to produce stickers.

**Sec.**  RCW 70A.455.050 and 2019 c 265 s 5 are each amended to read as follows:

(1) A manufacturer or supplier of a film bag that meets ASTM standard specification D6400 and is distributed or sold by retailers must ensure that the film bag is readily and easily identifiable from other film bags in a manner that is consistent with the federal trade commission guides.

(2) For purposes of this section, "readily and easily identifiable" products must meet the following requirements:

(a) Be labeled with a certification logo indicating the bag meets the ASTM D6400 standard specification if the bag has been certified as meeting that standard by a recognized third-party independent verification body;

(b) Be labeled in accordance with one of the following:

(i) The bag is tinted or made of a uniform color of green, beige, or brown and labeled with the word "compostable" on one side of the bag and the label must be at least one inch in height; or

(ii) Be labeled with the word "compostable" on both sides of the bag and the label must be one of the following:

(A) Green, beige, or brown color lettering at least one inch in height; or

(B) Within a contrasting green, beige, or brown color band of at least one inch in height on both sides of the bag with color contrasting lettering of at least one-half inch in height; and

(c) Meet industry standards for being distinguishable upon quick inspection in both public sorting areas and in processing facilities.

(3) If a bag is smaller than ((~~fourteen~~)) 14 inches by ((~~fourteen~~)) 14 inches, the lettering and stripe required under subsection (2)(b)(ii) of this section must be in proportion to the size of the bag.

(4) A film bag that meets ASTM standard specification D6400 that is sold or distributed in this state may not display a chasing arrow resin identification code or recycling type of symbol in any form.

(5) A manufacturer or supplier is required to comply with this section only to the extent that the labeling requirements do not conflict with the federal trade commission guides.

**Sec.**  RCW 70A.455.060 and 2020 c 20 s 1446 are each amended to read as follows:

(1)(a) A manufacturer or supplier of food service products or film products that meet ASTM standard specification D6400 or ASTM standard specification D6868 must ensure that the items are readily and easily identifiable from other plastic food service products or plastic film products in a manner that is consistent with the federal trade commission guides.

(b) Film bags are exempt from the requirements of this section, and are instead subject to the requirements of RCW 70A.455.050.

(2) For the purposes of this section, "readily and easily identifiable" products must:

(a) Be labeled with a logo indicating the product has been certified by a recognized third-party independent verification body as meeting the ASTM standard specification;

(b) Be labeled with the word "compostable," where possible, indicating the food packaging or film product has been tested by a recognized third-party independent body and meets the ASTM standard specification; ((~~and~~))

(c) Meet industry standards for being distinguishable upon quick inspection in both public sorting areas and in processing facilities; and

(d) Be colored or tinted green, beige, or brown.

(3) ((~~A compostable product described in subsection (1) of this section must be considered compliant with the requirements of this section if it:~~

~~(a) Has green or brown labeling;~~

~~(b) Is labeled as compostable; and~~

~~(c) Uses distinctive color schemes, green or brown color striping, or other adopted symbols, colors, marks, or design patterns that help differentiate compostable items from noncompostable materials.~~

~~(4)~~)) It is encouraged that each product described in subsection (1) of this section((~~:~~

~~(a) Display~~)) display labeling language via printing, embossing, or compostable adhesive stickers using, when possible, either the colors green, beige, or brown that contrast with background product color for easy identification((~~; or~~

~~(b) Be tinted green or brown~~)).

((~~(5)~~)) (4) Graphic elements are encouraged to increase legibility of the word "compostable" and overall product distinction that may include text boxes, stripes, bands, or a green, beige, or brown tint of the product.

((~~(6)~~)) (5) A manufacturer or supplier is required to comply with this section only to the extent that the labeling requirements do not conflict with the federal trade commission guides.

**Sec.**  RCW 70A.455.070 and 2020 c 20 s 1447 are each amended to read as follows:

A manufacturer or supplier of film products or food service products sold, offered for sale, or distributed for use in Washington that does not meet the applicable ASTM standard specifications provided in RCW 70A.455.050 and 70A.455.060 is:

(1) Prohibited from using tinting, color schemes, labeling, ((~~and~~)) or terms that are required of products that meet the applicable ASTM standard specifications under RCW 70A.455.050 and 70A.455.060;

(2) ((~~Discouraged from using coloration, labeling, images, and terms that~~)) Prohibited from using brown, beige, or green coloration labeling, brown, beige, or green tinting, images, or terms, if such coloration, labeling, tinting, images, or terms may reasonably be anticipated, in the judgment of the department, to confuse consumers into believing that noncompostable bags and food service packaging are compostable; and

(3) Encouraged to use coloration, tinting, labeling, images, and terms to help consumers identify noncompostable bags, film products, and food service packaging as either: (a) Suitable for recycling; or (b) necessary to dispose as waste.

**Sec.**  RCW 70A.455.080 and 2019 c 265 s 8 are each amended to read as follows:

(1) Upon the request by a person, including the department, a manufacturer or supplier shall submit to that person or the department, within ((~~ninety~~)) 90 days of the request, nonconfidential business information and documentation demonstrating compliance with this chapter, in a format that is easy to understand and scientifically accurate.

(2) Upon request by a commercial compost processing facility, manufacturers of compostable products are encouraged to provide the facility with information regarding the technical aspects of a commercial composting environment, such as heat or moisture, in which the manufacturer's product has been field tested and found to degrade.

**Sec.**  RCW 70A.455.090 and 2020 c 20 s 1448 are each amended to read as follows:

(1)(a) The ((~~state, acting through the attorney general,~~)) department and cities and counties have concurrent authority to enforce this chapter and to collect civil penalties for a violation of this chapter, subject to the conditions in this section and RCW 70A.455.100. An enforcing government entity may impose a civil penalty in the amount of up to ((~~two thousand dollars~~)) $2,000 for the first violation of this chapter, up to ((~~five thousand dollars~~)) $5,000 for the second violation of this chapter, and up to ((~~ten thousand dollars~~)) $10,000 for the third and any subsequent violation of this chapter. If a manufacturer or supplier has paid a prior penalty for the same violation to a different government entity with enforcement authority under this subsection, the penalty imposed by a government entity is reduced by the amount of the payment.

(b) The enforcement of this chapter must be based primarily on complaints filed with the department and cities and counties. The department must establish a forum for the filing of complaints. Cities, counties, or any person may file complaints with the department using the forum, and cities and counties may review complaints filed with the department via the forum. The forum established by the department may include a complaint form on the department's website, a telephone hotline, or a public outreach strategy relying upon electronic social media to receive complaints that allege violations. The department, in collaboration with the cities and counties, must provide education and outreach activities to inform retail establishments, consumers, and suppliers about the requirements of this chapter.

(2) ((~~Any civil penalties collected pursuant to this section must be paid to the office of the city attorney, city prosecutor, district attorney, or attorney general, whichever office brought the action. Penalties collected by the attorney general on behalf of the state must be deposited in the compostable products revolving account created in RCW 70A.455.110~~)) Penalties issued by the department are appealable to the pollution control hearings board established in chapter 43.21B RCW.

(3) The remedies provided by this section are not exclusive and are in addition to the remedies that may be available pursuant to chapter 19.86 RCW or other consumer protection laws, if applicable.

(4) In addition to penalties recovered under this section, the enforcing ((~~government entity~~)) city or county may recover reasonable enforcement costs and attorneys' fees from the liable manufacturer or supplier.

**Sec.**  RCW 70A.455.100 and 2020 c 20 s 1449 are each amended to read as follows:

(1) Manufacturers and suppliers who violate the requirements of this chapter are subject to civil penalties described in RCW 70A.455.090. A specific violation is deemed to have occurred upon the sale of noncompliant product by stock-keeping unit number or unique item number. The repeated sale of the same noncompliant product by stock-keeping unit number or unique item number is considered a single violation. ((~~A city, county, or the state~~))

(2)(a) A city or county enforcing a requirement of this chapter must send a written notice and a copy of the requirements to a noncompliant manufacturer or supplier of an alleged violation, who will have ((~~ninety~~)) 90 days to become compliant. ((~~A city, county, or the state may assess a first penalty if the manufacturer or supplier has not met the requirements ninety days following the date the notification was sent. A city, county, or the state~~))

(b) A city or county enforcing a requirement of this chapter may assess a first penalty if the manufacturer or supplier has not met the requirements 90 days following the date the notification was sent. A city or county may impose second, third, and subsequent penalties on a manufacturer or supplier that remains noncompliant with the requirements of this chapter for every month of noncompliance.

(3) The department may only impose penalties under this chapter consistent with the standards established in RCW 43.21B.300.

NEW SECTION. **Sec.**  A new section is added to chapter 70A.455 RCW to read as follows:

(1)The department may adopt rules as necessary for the purpose of implementing, administering, and enforcing this chapter.

(2) The department must begin enforcing the requirements of this chapter by January 1, 2024.

NEW SECTION. **Sec.**  A new section is added to chapter 70A.455 RCW to read as follows:

(1)(a) Beginning January 1, 2024, a person may not sell or distribute in or into Washington plastic produce stickers, or products with plastic produce stickers, that do not meet ASTM standard D6400 or ASTM standard D6868, as those standards existed as of January 1, 2022.

(b) The requirements of (a) of this subsection do not apply to produce labels that are comprised of wood or fiber-based substrate only.

(2) Upon request, the department must provide technical assistance and guidance to manufacturers, importers, or distributors of prohibited produce stickers that sell, offer for sale, or otherwise supply such products in or into Washington.

**Sec.**  RCW 43.21B.110 and 2021 c 316 s 41 and 2021 c 313 s 16 are each reenacted and amended to read as follows:

(1) The hearings board shall only have jurisdiction to hear and decide appeals from the following decisions of the department, the director, local conservation districts, the air pollution control boards or authorities as established pursuant to chapter 70A.15 RCW, local health departments, the department of natural resources, the department of fish and wildlife, the parks and recreation commission, and authorized public entities described in chapter 79.100 RCW:

(a) Civil penalties imposed pursuant to RCW 18.104.155, 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070, 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080, 70A.65.200, 70A.455.090, 76.09.170, 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

(b) Orders issued pursuant to RCW 18.104.043, 18.104.060, 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070, 70A.245.020, 70A.65.200, 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

(c) Except as provided in RCW 90.03.210(2), the issuance, modification, or termination of any permit, certificate, or license by the department or any air authority in the exercise of its jurisdiction, including the issuance or termination of a waste disposal permit, the denial of an application for a waste disposal permit, the modification of the conditions or the terms of a waste disposal permit, or a decision to approve or deny an application for a solid waste permit exemption under RCW 70A.205.260.

(d) Decisions of local health departments regarding the grant or denial of solid waste permits pursuant to chapter 70A.205 RCW.

(e) Decisions of local health departments regarding the issuance and enforcement of permits to use or dispose of biosolids under RCW 70A.226.090.

(f) Decisions of the department regarding waste-derived fertilizer or micronutrient fertilizer under RCW 15.54.820, and decisions of the department regarding waste-derived soil amendments under RCW 70A.205.145.

(g) Decisions of local conservation districts related to the denial of approval or denial of certification of a dairy nutrient management plan; conditions contained in a plan; application of any dairy nutrient management practices, standards, methods, and technologies to a particular dairy farm; and failure to adhere to the plan review and approval timelines in RCW 90.64.026.

(h) Any other decision by the department or an air authority which pursuant to law must be decided as an adjudicative proceeding under chapter 34.05 RCW.

(i) Decisions of the department of natural resources, the department of fish and wildlife, and the department that are reviewable under chapter 76.09 RCW, and the department of natural resources' appeals of county, city, or town objections under RCW 76.09.050(7).

(j) Forest health hazard orders issued by the commissioner of public lands under RCW 76.06.180.

(k) Decisions of the department of fish and wildlife to issue, deny, condition, or modify a hydraulic project approval permit under chapter 77.55 RCW, to issue a stop work order, to issue a notice to comply, to issue a civil penalty, or to issue a notice of intent to disapprove applications.

(l) Decisions of the department of natural resources that are reviewable under RCW 78.44.270.

(m) Decisions of an authorized public entity under RCW 79.100.010 to take temporary possession or custody of a vessel or to contest the amount of reimbursement owed that are reviewable by the hearings board under RCW 79.100.120.

(n) Decisions of the department of ecology that are appealable under RCW 70A.245.020 to set recycled minimum postconsumer content for covered products or to temporarily exclude types of covered products in plastic containers from minimum postconsumer recycled content requirements.

(o) Orders by the department of ecology under RCW 70A.455.080.

(2) The following hearings shall not be conducted by the hearings board:

(a) Hearings required by law to be conducted by the shorelines hearings board pursuant to chapter 90.58 RCW.

(b) Hearings conducted by the department pursuant to RCW 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100, 70A.15.3110, and 90.44.180.

(c) Appeals of decisions by the department under RCW 90.03.110 and 90.44.220.

(d) Hearings conducted by the department to adopt, modify, or repeal rules.

(3) Review of rules and regulations adopted by the hearings board shall be subject to review in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW.

**Sec.**  RCW 43.21B.300 and 2021 c 316 s 42 and 2021 c 313 s 17 are each reenacted and amended to read as follows:

(1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160, 70A.205.280, 70A.300.090, 70A.20.050, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080, 70A.65.200, 70A.455.090, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102 and chapter 70A.355 RCW shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the penalty from the department or the local air authority, describing the violation with reasonable particularity. For penalties issued by local air authorities, within ((~~thirty~~)) 30 days after the notice is received, the person incurring the penalty may apply in writing to the authority for the remission or mitigation of the penalty. Upon receipt of the application, the authority may remit or mitigate the penalty upon whatever terms the authority in its discretion deems proper. The authority may ascertain the facts regarding all such applications in such reasonable manner and under such rules as it may deem proper and shall remit or mitigate the penalty only upon a demonstration of extraordinary circumstances such as the presence of information or factors not considered in setting the original penalty.

(2) Any penalty imposed under this section may be appealed to the pollution control hearings board in accordance with this chapter if the appeal is filed with the hearings board and served on the department or authority ((~~thirty~~)) 30 days after the date of receipt by the person penalized of the notice imposing the penalty or ((~~thirty~~)) 30 days after the date of receipt of the notice of disposition by a local air authority of the application for relief from penalty.

(3) A penalty shall become due and payable on the later of:

(a) Thirty days after receipt of the notice imposing the penalty;

(b) Thirty days after receipt of the notice of disposition by a local air authority on application for relief from penalty, if such an application is made; or

(c) Thirty days after receipt of the notice of decision of the hearings board if the penalty is appealed.

(4) If the amount of any penalty is not paid to the department within ((~~thirty~~)) 30 days after it becomes due and payable, the attorney general, upon request of the department, shall bring an action in the name of the state of Washington in the superior court of Thurston county, or of any county in which the violator does business, to recover the penalty. If the amount of the penalty is not paid to the authority within ((~~thirty~~)) 30 days after it becomes due and payable, the authority may bring an action to recover the penalty in the superior court of the county of the authority's main office or of any county in which the violator does business. In these actions, the procedures and rules of evidence shall be the same as in an ordinary civil action.

(5) All penalties recovered shall be paid into the state treasury and credited to the general fund except those penalties imposed pursuant to RCW 18.104.155, which shall be credited to the reclamation account as provided in RCW 18.104.155(7), RCW 70A.15.3160, the disposition of which shall be governed by that provision, RCW 70A.245.040 and 70A.245.050, which shall be credited to the recycling enhancement account created in RCW 70A.245.100, RCW 70A.300.090, which shall be credited to the model toxics control operating account created in RCW 70A.305.180, RCW 70A.65.200, which shall be credited to the climate investment account created in RCW 70A.65.250, RCW 90.56.330, which shall be credited to the coastal protection fund created by RCW 90.48.390, and RCW 70A.355.070, which shall be credited to the underground storage tank account created by RCW 70A.355.090.

**PART 9**

**Miscellaneous**

NEW SECTION. **Sec.**  Sections 401, 402, and 403 of this act constitute a new chapter in Title 70A RCW.

NEW SECTION. **Sec.**  The following acts or parts of acts are each repealed:

(1)RCW 70A.455.110 (Compostable products revolving account) and 2020 c 20 s 1450 & 2019 c 265 s 11; and

(2)RCW 70A.455.900 (Effective date—2019 c 265) and 2019 c 265 s 13.

NEW SECTION. **Sec.**  If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**--- END ---**