

SHB 1896 - H AMD 966

By Representative Harris-Talley

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** INTENT. The legislature finds that:

4 (1) It is in the public interest of the citizens of Washington to
5 encourage the recovery and reuse of materials, such as metals, that
6 replace the output of mining and other extractive industries.

7 (2) Without a dedicated battery stewardship program, battery user
8 confusion regarding proper disposal options will continue to persist.

9 (3) Ensuring the proper handling, recycling, and end-of-life
10 management of used batteries prevents the release of toxic materials
11 into the environment and removes materials from the waste stream
12 that, if mishandled, may present safety concerns to workers, such as
13 by igniting fires at solid waste handling facilities. For this
14 reason, batteries should not be placed into commingled recycling
15 containers or disposed of via traditional garbage collection
16 containers.

17 (4) Jurisdictions around the world have successfully implemented
18 battery stewardship laws that have helped address the challenges
19 posed by the end-of-life management of batteries. Because it is
20 difficult for customers to differentiate between types and
21 chemistries of batteries, it is the best practice for battery
22 stewardship programs to collect all battery types and chemistries.
23 Furthermore, it is appropriate for larger batteries used in emerging
24 market sectors such as electric vehicles, solar power arrays, and
25 data centers, to be managed to ensure environmentally positive
26 outcomes similar to those achieved by a battery stewardship program,
27 both because of the potential economic value of large batteries used
28 for these purposes and the anticipated profusion of these larger
29 batteries as these market sectors mature.

1 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
2 section apply throughout this chapter unless the context clearly
3 requires otherwise.

4 (1) (a) "Battery containing product" means a product containing
5 primary or rechargeable batteries that are covered batteries.

6 (b) A battery containing product does not include a covered
7 electronic product under an approved plan implemented under chapter
8 70A.500 RCW.

9 (2) "Battery management hierarchy" means a management system of
10 covered batteries prioritized in descending order as follows:

11 (a) Prevention and waste reduction;

12 (b) Reuse, when reuse is appropriate;

13 (c) Recycling, as defined in RCW 70A.205.015; and

14 (d) Other means of end-of-life management, which may only be
15 utilized after demonstrating to the department that it is not
16 feasible to manage the batteries under the higher priority options in
17 (a) through (c) of this subsection.

18 (3) "Battery stewardship organization" means a producer that
19 directly implements a battery stewardship plan required under this
20 chapter or a nonprofit organization designated by a producer or group
21 of producers to implement a battery stewardship plan required under
22 this chapter.

23 (4) "Button cell battery" means a round small cell or battery
24 with an overall cell or battery height that is less than the diameter
25 of the battery or cell.

26 (5) (a) "Covered battery" means a portable battery or, beginning
27 January 1, 2028, a medium format battery.

28 (b) "Covered battery" does not include:

29 (i) A battery contained within a medical device, as specified in
30 Title 21 U.S.C. Sec. 321(h) as it existed as of the effective date of
31 this section;

32 (ii) A battery that contains an electrolyte as a free liquid;

33 (iii) A button cell battery contained in circuit boards or
34 equipment;

35 (iv) A battery subject to the provisions of RCW 70A.205.505
36 through 70A.205.530 or other portable batteries contained in a motor
37 vehicle, part of a motor vehicle, or a component part of a motor
38 vehicle assembled by, or for, a vehicle manufacturer or franchised
39 dealer, including replacement parts for use in a motor vehicle; and

1 (v) A battery in a battery containing product that is not
2 intended or designed to be easily removable from the battery
3 containing product.

4 (6) "Department" means the department of ecology.

5 (7) "Easily removable" means designed by the manufacturer to be
6 removable by the customer.

7 (8) "Environmentally sound management practices" means practices
8 that: (a) Comply with all applicable laws and rules to protect
9 workers, public health, and the environment; (b) provide for adequate
10 recordkeeping, tracking, and documenting of the fate of materials
11 within the state and beyond; and (c) include comprehensive liability
12 coverage for the battery stewardship organization, including
13 environmental liability coverage.

14 (9) "Final disposition" means the end products for which
15 materials contained in a covered battery collected by the program
16 will be used, at the point where the material is in its constituent
17 parts and is no longer considered waste.

18 (10) "Large format battery" means a rechargeable battery that
19 weighs more than 25 pounds or has a rating of more than 1,000 watt
20 hours and a primary battery that weighs more than 25 pounds.

21 (11) "Medium format battery" means the following primary or
22 rechargeable covered batteries:

23 (a) For rechargeable batteries, weighing more than 11 pounds or
24 has a rating of more than 300 watt hours, or both, and no more than
25 25 pounds and has a rating of no more than 1,000 watt hours.

26 (b) For primary batteries, weighing more than 11 pounds but not
27 more than 25 pounds.

28 (12) "Portable battery" means the following primary or
29 rechargeable batteries:

30 (a) For rechargeable batteries, weighing no more than 11 pounds
31 and has a rating of no more than 300 watt hours.

32 (b) For primary batteries, weighing no more than 11 pounds.

33 (13) "Primary battery" means a battery that is not capable of
34 being recharged.

35 (14) (a) "Producer" means with respect to a covered battery or
36 battery containing product that is sold, offered for sale, or
37 distributed for sale in or into the state:

38 (i) The person that manufactures the covered battery or covered
39 battery containing product and sells or offers for sale in or into
40 the state that battery or product under the person's own brand;

1 (ii) If there is no person to which (a)(i) of this subsection
2 applies, the owner or licensee of a brand under which the covered
3 battery or covered battery containing product is sold, offered for
4 sale, or distributed in or into the state;

5 (iii) If there is no person to which (a)(i) or (ii) of this
6 subsection applies, a person that imports the covered battery or
7 covered battery containing product into the United States for sale or
8 distribution into Washington; or

9 (iv) If there is no person described in (a)(i), (ii), or (iii) of
10 this subsection over whom the state can constitutionally exercise
11 jurisdiction, the producer is the person who imports or distributes
12 the covered battery or covered battery containing product in or into
13 the state.

14 (b) A producer does not include any person who only manufactures,
15 sells, offers for sale, distributes, or imports into the state a
16 battery containing product if the only batteries used by the battery
17 containing product are supplied by a producer participating in an
18 approved stewardship plan.

19 (c) A retailer that sells covered batteries or battery containing
20 products under its own brand, or that otherwise meets the definition
21 of a producer in (a) and (b) of this subsection, is a producer for
22 purposes of this chapter.

23 (15) "Program" means a program implemented by a battery
24 stewardship organization consistent with an approved battery
25 stewardship plan.

26 (16) "Rechargeable battery" means a battery that contains one or
27 more voltaic or galvanic cells, electrically connected to produce
28 electric energy, designed to be recharged.

29 (17) "Recycling efficiency rate" means the ratio of the weight of
30 resources recovered from batteries received by a battery processor to
31 the weight of batteries received by that battery processor.

32 (18) "Retailer" means a person who sells covered batteries or
33 battery containing products in or into this state or offers or
34 otherwise makes available covered batteries or battery containing
35 products to a customer, including other businesses, for use in this
36 state.

37 (19) "Urban cluster" means areas of population density of 2,500
38 to 50,000, as defined by the United States census bureau as of
39 January 1, 2021.

1 (20) "Urbanized area" means areas of high population density with
2 populations of 50,000 or greater, as defined by the United States
3 census bureau as of January 1, 2021.

4 NEW SECTION. **Sec. 3.** REQUIREMENT THAT PRODUCERS IMPLEMENT A
5 STEWARDSHIP PLAN. (1) Beginning January 1, 2026, each producer
6 selling covered batteries or battery containing products in or into
7 the state of Washington shall participate in an approved Washington
8 state battery stewardship plan through participation in and
9 appropriate funding of a battery stewardship organization.

10 (2) A producer that does not participate in a battery stewardship
11 organization and battery stewardship plan may not sell covered
12 batteries or battery containing products covered by this chapter in
13 or into Washington.

14 NEW SECTION. **Sec. 4.** ROLE OF RETAILERS. (1) Beginning July 1,
15 2026, for portable batteries, and July 1, 2028, for medium format
16 batteries, a retailer may not sell, offer for sale, or otherwise make
17 available for sale a covered battery or battery containing product
18 unless the producer of the covered battery or battery containing
19 product participates in a battery stewardship organization whose plan
20 has been approved by the department.

21 (2) A retailer is in compliance with the requirements of
22 subsection (1) of this section and is not subject to penalties under
23 section 12 of this act as long as the website made available by the
24 department under section 11 of this act lists, as of the date a
25 product is made available for retail sale, a producer or brand of
26 covered battery or battery containing product sold by the retailer as
27 being a participant in an approved plan or the implementer of an
28 approved plan.

29 (3) Retailers of covered batteries or battery containing products
30 are not required to make retail locations available to serve as
31 collection locations for a stewardship program operated by a battery
32 stewardship organization. However, a retailer that agrees to make a
33 retail location available to serve as a collection location for a
34 stewardship program must comply with the requirements for collection
35 locations, consistent with section 8 of this act.

36 (4) A retailer may not sell, offer for sale, or otherwise make
37 available for sale covered batteries, other than batteries contained
38 in battery containing products, unless those batteries are marked

1 consistent with the requirements of section 14 of this act. A
2 producer of a battery containing product containing a covered battery
3 must certify to the retailers of their product that the battery
4 contained in the battery containing product is marked consistent with
5 the requirements of section 14 of this act.

6 (5) A retailer selling or offering covered batteries or battery
7 containing products for sale in Washington may provide information,
8 provided to the retailer by the battery stewardship organization,
9 regarding available end-of-life management options for covered
10 batteries collected by the battery stewardship organization. The
11 information that a battery stewardship organization must make
12 available to retailers for voluntary use by retailers must include,
13 but is not limited to, in-store signage, written materials, and other
14 promotional materials that retailers may use to inform customers of
15 the available end-of-life management options for covered batteries
16 collected by the stewardship organization.

17 (6) Retailers, producers, or stewardship organizations may not
18 charge a specific point-of-sale fee to consumers to cover the
19 administrative or operational costs of the stewardship organization
20 or the battery stewardship program.

21 NEW SECTION. **Sec. 5.** STEWARDSHIP PLAN COMPONENTS. (1) By July
22 1, 2025, or no less than six months before a plan begins to be
23 implemented, each battery stewardship organization must submit a plan
24 to the department for approval. A battery stewardship organization
25 may submit a plan at any time to the department for review and
26 approval. The department must review and may approve a plan based on
27 whether it contains and adequately addresses the following
28 components:

29 (a) Lists and provides contact information for each producer,
30 battery brand, and battery containing product brand covered in the
31 plan;

32 (b) Proposes performance goals, consistent with section 6 of this
33 act, including establishing performance goals for each of the next
34 three upcoming calendar years of program implementation;

35 (c) Describes how the battery stewardship organization will make
36 retailers aware of their obligation to sell only covered batteries
37 and battery containing products of producers participating in an
38 approved plan;

1 (d) Includes a detailed and comprehensive list of promotion
2 activities to be undertaken as part of the first year of the
3 educational and outreach program required in section 9 of this act,
4 and the identification of consumer awareness goals, and strategies
5 that the program will employ to achieve these goals after the program
6 begins to be implemented;

7 (e) Includes a collection site procedural manual, and other
8 safety information related to covered battery collection activities
9 at collection sites, including appropriate protocols to reduce risks
10 of spills or fires and response protocols in the event of a spill or
11 fire, and a protocol for safe management of damaged batteries that
12 are returned to collection sites;

13 (f) Describes the financing methods used to implement the plan,
14 consistent with section 7 of this act, including how producer fees
15 and fee modulation will incorporate design for recycling and resource
16 conservation as objectives, and a template reimbursement agreement,
17 developed in consultation with local governments, for local
18 governments and other program stakeholders;

19 (g) Describes how the program will collect all covered battery
20 chemistries and brands on a free, continuous, convenient, visible,
21 and accessible basis, and consistent with the requirements of section
22 8 of this act, including a description of how the statewide
23 convenience standard will be met and a list of collection sites,
24 including the latitude and longitude of collection sites;

25 (h) Describes the criteria to be used in the program to determine
26 whether an entity may serve as a collection location for discarded
27 batteries under the program;

28 (i) Describes how the program will offer additional portable
29 battery collection opportunities and pick-up service at special
30 locations where batteries are often spent and replaced and that will
31 provide adequate supervision of collection containers, such as parks
32 with stores and campgrounds;

33 (j) Describes the methods used to calculate whether the
34 stewardship program is collecting batteries in an amount roughly
35 equivalent to the weight of covered batteries sold by producers into
36 Washington, and how the battery stewardship organization will:

37 (i) Seek reimbursement from other battery stewardship
38 organizations that underperform on their battery collection
39 obligations under section 8 of this act; and

1 (ii) Reimburse other battery stewardship organizations if the
2 battery stewardship organization underperforms on its battery
3 collection obligations under section 8 of this act;

4 (k) Identifies proposed brokers, transporters, processors, and
5 facilities to be used by the program for the final disposition of
6 batteries and how collected batteries will be managed in:

7 (i) An environmentally sound and socially just manner at
8 facilities operating with human health and environmental protection
9 standards that are broadly equivalent to or better than those
10 required in the United States and other countries that are members of
11 the organization for economic cooperation and development. A
12 stewardship organization is in compliance with the requirements of
13 this subsection if it meets standards broadly equivalent to,
14 contained in, or better than the sustainable electronics reuse and
15 recycling standard, version 3.0, as it existed as of July 1, 2020,
16 published by sustainable electronics recycling international, and
17 that uses only facilities for the final disposition of batteries that
18 meet that standard; and

19 (ii) A manner consistent with the battery management hierarchy,
20 including how each proposed facility used for the final disposition
21 of batteries will recycle or otherwise manage batteries;

22 (l) Details how the program will achieve a recycling efficiency
23 rate, calculated consistent with section 10 of this act, of at least
24 70 percent for rechargeable batteries and at least 80 percent for
25 primary batteries; and

26 (m) Proposes goals for increasing public awareness of the
27 program, including subgoals applicable to public awareness of the
28 program in vulnerable populations and overburdened communities
29 identified by the department under chapter 70A.02 RCW, and describes
30 how the public education and outreach components of the program under
31 section 9 of this act will be implemented.

32 (2) If required by the department, a battery stewardship
33 organization must submit a new plan to the department for approval:

34 (a) When there is a change to the method of financing plan
35 implementation under section 7 of this act;

36 (b) If there are significant changes to the methods of
37 collection, transport, or end-of-life management of covered batteries
38 under section 8 of this act that are not covered by the plan. The
39 department may, by rule, identify the types of significant changes
40 that require a new plan to be submitted to the department for

1 approval. For purposes of this subsection, adding or removing a
2 processor or transporter under the plan is not considered a
3 significant change that requires a plan resubmittal;

4 (c) To address the novel inclusion of medium format batteries or
5 large format batteries as covered batteries under the plan; and

6 (d) No less than every five years.

7 (3) If required by the department, a battery stewardship
8 organization must provide plan amendments to the department for
9 approval:

10 (a) After a producer begins or ceases to participate in a battery
11 stewardship organization, as part of a quarterly update submitted to
12 the department that also includes a current identification of the
13 producers and brands participating in the plan;

14 (b) When proposing changes to the performance goals under section
15 6 of this act;

16 (c) When adding or removing a processor or transporter, as part
17 of a quarterly update submitted to the department; or

18 (d) Proposing updated performance goals based upon the to-date
19 experience of the program, which must be submitted at the time the
20 second annual report is submitted to the department by a battery
21 stewardship organization under section 10 of this act and every two
22 years thereafter.

23 (4) No earlier than five years after the initial approval of a
24 plan, the department may require a battery stewardship organization
25 to submit a revised plan, which may include improvements to the
26 collection site network or increased expenditures dedicated to
27 education and outreach, if the approved plan does not meet the
28 performance goals under section 6 of this act.

29 NEW SECTION. **Sec. 6.** STEWARDSHIP PROGRAM COMPONENTS—PERFORMANCE
30 GOALS. (1) Each battery stewardship plan must include performance
31 goals that measure, on an annual basis, the achievements of the
32 program. Performance goals must take into consideration technical
33 feasibility and economic practicality in achieving continuous,
34 meaningful progress in improving:

35 (a) The rate of battery collection for recycling in Washington;

36 (b) The recycling efficiency of the program; and

37 (c) Public awareness of the program.

38 (2) The performance goals established in each battery stewardship
39 plan must include, but are not limited to:

- 1 (a) Target collection rates;
- 2 (b) Target recycling efficiency rates of at least 70 percent for
3 rechargeable batteries and at least 80 percent for primary batteries;
- 4 (c) For each battery recycling process, targets for the amount of
5 secondary material derived from the recycling processes as measured
6 by average weights; and
- 7 (d) Goals for public awareness, convenience, and accessibility
8 that exceed the minimum requirements established in section 8 of this
9 act.

10 NEW SECTION. **Sec. 7.** STEWARDSHIP PROGRAM COMPONENTS—FUNDING.

11 (1) Each battery stewardship organization must ensure adequate
12 funding is available to fully implement approved battery stewardship
13 plans, including the implementation of aspects of the plan
14 addressing:

- 15 (a) Battery collection, transporting, and processing;
- 16 (b) Education and outreach;
- 17 (c) Program evaluation; and
- 18 (d) Payment of the administrative fees to the department under
19 section 11 of this act.

20 (2)(a) A battery stewardship organization implementing a battery
21 stewardship plan on behalf of producers must develop, and continually
22 improve over the years of program implementation, a system to collect
23 charges from participating producers to cover the costs of plan
24 implementation in an environmentally sound and socially just manner
25 that encourages the use of design attributes that reduce the
26 environmental impacts of covered batteries, such as through the use
27 of eco-modulated fees to:

- 28 (i) Encourage designs intended to facilitate reuse and recycling;
- 29 (ii) Encourage the use of recycled content;
- 30 (iii) Discourage the use of problematic materials that increase
31 system costs of managing covered products; and
- 32 (iv) Encourage other design attributes that reduce the
33 environmental impacts of covered products.

34 (b) Beginning during the first year of program implementation, at
35 a minimum for purposes of fulfilling the requirements of (a) of this
36 subsection, a battery stewardship organization must proportionally
37 reduce the financial obligations of producers for their use of
38 batteries that contain recycled content.

1 (3) (a) Each battery stewardship organization is responsible for
2 all costs of participating covered battery collection,
3 transportation, processing, education, administration, agency
4 reimbursement, recycling, and end-of-life management in accordance
5 with the battery management hierarchy and environmentally sound
6 management practices.

7 (b) Each battery stewardship organization must collect and
8 provide for the end-of-life management of batteries in an amount
9 roughly equivalent to the weight of batteries sold by covered
10 producers into Washington. A battery stewardship organization may
11 seek or provide reimbursement, consistent with the provisions of the
12 stewardship plan, from a different battery stewardship organization
13 that fails to collect and provide for the end-of-life management of
14 batteries in an amount roughly equivalent to the national market
15 share of the batteries of producers participating in the plan.

16 (c) A battery stewardship organization is not authorized to
17 reduce or cease collection, education and outreach, or other
18 activities implemented under an approved plan based on achievement of
19 program performance goals or upon collecting and providing for the
20 end-of-life management of more batteries than required under (b) of
21 this subsection.

22 (4) (a) A battery stewardship organization must reimburse local
23 governments for demonstrable costs incurred as a result of a local
24 government facility or solid waste handling facility serving as a
25 collection location for a program including, but not limited to,
26 associated labor costs and other costs associated with accessibility
27 and collection site standards such as storage.

28 (b) A battery stewardship organization must include in its
29 battery stewardship plan, and provide upon request, a template of the
30 service agreement and any other forms, contracts, or other documents
31 for use in distribution of reimbursements. The service agreement
32 template must be developed with local government input. The entities
33 seeking or receiving reimbursement from the battery stewardship
34 organization are not required to use the template agreement included
35 in the program plan and are not limited to the terms of the template
36 agreement included in the program plan.

37 NEW SECTION. **Sec. 8.** STEWARDSHIP PROGRAM COMPONENTS—COLLECTION
38 AND MANAGEMENT REQUIREMENTS. (1) Battery stewardship organizations
39 implementing a battery stewardship plan must provide for the

1 collection of all covered batteries, including all chemistries and
2 brands of covered batteries, on a free, continuous, convenient,
3 visible, and accessible basis to any person, business, government
4 agency, or nonprofit organization. A fee may not be charged at the
5 time unwanted covered batteries are delivered or collected for
6 management. Except as provided in subsection (2)(b) of this section,
7 each battery stewardship plan must allow any person, business,
8 government agency, or nonprofit organization to discard each
9 chemistry and brand of covered battery at each collection site that
10 counts towards the satisfaction of the collection site criteria in
11 subsection (3) of this section.

12 (2)(a) At each collection site utilized by the program, each
13 battery stewardship organization must provide suitable collection
14 containers for discarded batteries that are segregated from other
15 solid waste or make mutually agreeable alternative arrangements for
16 the collection of batteries at the site. The location of collection
17 containers at each collection site used by the program must be within
18 view of a responsible person and must be accompanied by signage made
19 available to the collection site by the battery stewardship
20 organization that informs customers regarding the end-of-life
21 management options for batteries provided by the collection site
22 under this chapter. Each collection site must adhere to the
23 operations manual and other safety information provided to the
24 collection site by the battery stewardship organization.

25 (b) Medium format batteries may only be collected at household
26 hazardous waste collection locations or other locations that are
27 staffed by persons who are certified to handle and ship hazardous
28 materials under federal regulations adopted by the United States
29 department of transportation pipeline and hazardous materials safety
30 administration.

31 (3)(a) Each battery stewardship organization implementing a
32 battery stewardship plan shall ensure statewide collection
33 opportunities for all covered batteries. Statewide collection
34 opportunities must be determined by geographic information modeling
35 that considers permanent collection sites. The program may rely, in
36 part, on collection events to supplement the permanent collection
37 services required in (a) and (b) of this subsection. However, only
38 permanent collection services specified in (a) and (b) of this
39 subsection qualify towards the satisfaction of the requirements of
40 this subsection.

1 (b) For portable batteries, each battery stewardship organization
2 must provide statewide collection opportunities that include, but are
3 not limited to, the provision of:

4 (i) At least one permanent collection site for portable batteries
5 within a 15 mile radius for at least 95 percent of Washington
6 residents;

7 (ii) The establishment of collection sites that are accessible
8 and convenient to overburdened communities identified by the
9 department under chapter 70A.02 RCW, in an amount that is roughly
10 proportional to the number and population of overburdened communities
11 identified by the department under chapter 70A.02 RCW relative to the
12 population or size of the state as a whole;

13 (iii) At least one permanent collection site for portable
14 batteries in addition to those required in (b)(i) of this subsection
15 for every 30,000 residents of an urbanized area and for every urban
16 cluster of at least 30,000 residents. For the purposes of compliance
17 with this subsection (3)(b)(iii), a battery stewardship organization
18 and the department may rely upon designations of urban locations by
19 the United States census bureau that are determined by the department
20 to be similar to the definitions of urbanized area or urban cluster
21 in section 2 of this act;

22 (iv) Collection opportunities and service for portable batteries
23 to all counties and tribal lands in Washington;

24 (v) Collection opportunities for portable batteries at special
25 locations where batteries are often spent and replaced, such as
26 supervised locations at parks with stores and campgrounds; and

27 (vi) Service to areas without a permanent collection site,
28 including service to island and geographically isolated communities.

29 (c) For medium format batteries, a battery stewardship
30 organization must provide statewide collection opportunities that
31 include, but are not limited to, the provision of:

32 (i) At least 25 collection sites in Washington;

33 (ii) Reasonable geographic dispersion of collection sites
34 throughout the state;

35 (iii) A collection location in each county of at least 200,000
36 persons, as determined by the most recent population estimate of the
37 office of financial management;

38 (iv) The establishment of collection sites that are accessible to
39 public transit and that are convenient to overburdened communities
40 identified by the department under chapter 70A.02 RCW; and

1 (v) Service to areas without a permanent collection site,
2 including service to island and geographically isolated communities.

3 (4) (a) Stewardship programs must use existing public and private
4 waste collection services and facilities, including battery
5 collection locations that are established through other battery
6 collection services, transporters, consolidators, processors,
7 retailers, and curbside services, where cost-effective, mutually
8 agreeable, and otherwise practicable.

9 (b) Stewardship programs must use as a collection site for
10 portable batteries any retailer, wholesaler, municipality, solid
11 waste management facility, or other entity that meets the collection
12 site criteria provided in this section and the criteria for
13 collection locations in the approved plan, upon the submission of a
14 request by the entity to the battery stewardship organization to
15 serve as a collection site.

16 (c) A stewardship organization may suspend or terminate a
17 collection site or service that does not adhere to the collection
18 site criteria in the approved plan and that poses an immediate health
19 and safety concern. The stewardship organization must notify the
20 department upon suspending or terminating a collection site or
21 service.

22 (5) (a) Stewardship programs are not required to provide for the
23 collection of battery containing products.

24 (b) Stewardship programs are not required to provide for the
25 collection of batteries that:

26 (i) Are not intended or designed to be easily removable from the
27 product other than by the manufacturer; and

28 (ii) Remain contained in a battery containing product at the time
29 of delivery to a collection site.

30 (c) Stewardship programs are required to provide for the
31 collection of covered batteries that were once contained in battery
32 containing products but that are not contained in the battery
33 containing product at the time of delivery to a collection site.

34 (d) Stewardship programs are not required to provide for the
35 collection of batteries still contained in covered electronic
36 products under chapter 70A.500 RCW.

37 (6) Batteries collected by the program must be managed consistent
38 with the battery management hierarchy. Lower priority end-of-life
39 battery management options on the battery management hierarchy may be
40 used by a program only when a battery stewardship organization

1 documents to the department that all higher priority battery
2 management options on the battery management hierarchy are not
3 technologically feasible or economically practical.

4 (7) The department must adopt rules to clarify the protocols that
5 a collection site must follow for the collection of batteries that do
6 not bear a label or marking that clearly conveys information related
7 to the battery's watt-hour capacity or weight.

8 NEW SECTION. **Sec. 9.** STEWARDSHIP PROGRAM COMPONENTS—EDUCATION
9 AND OUTREACH REQUIREMENTS. (1) Each battery stewardship organization
10 must carry out promotional activities in support of plan
11 implementation including, but not limited to, the development:

12 (a) And maintenance of a website;

13 (b) And distribution of periodic press releases and articles;

14 (c) And placement of graphic advertisements for use on social
15 media or other relevant media platforms;

16 (d) Of promotional materials about the program and the
17 restriction on the disposal of covered batteries in section 15 of
18 this act to be used by retailers, government agencies, and nonprofit
19 organizations;

20 (e) And distribution of the collection site procedural manual
21 approved by the department to collection sites to help ensure proper
22 management of covered batteries at collection locations; and

23 (f) And implementation of outreach and educational resources
24 targeted to overburdened communities and vulnerable populations
25 identified by the department under chapter 70A.02 RCW that are
26 conceptually, linguistically, and culturally accurate for the
27 communities served and reach the state's diverse ethnic populations,
28 including through meaningful consultation with communities that bear
29 disproportionately higher levels of adverse environmental and social
30 justice impacts.

31 (2) Each battery stewardship organization must provide:

32 (a) Consumer-focused educational promotional materials to each
33 collection location used by the program and at each retailer that
34 sells covered batteries or battery containing products; and

35 (b) Safety information related to covered battery collection
36 activities to the operator of each collection site, including
37 appropriate protocols to reduce risks of spills or fires and response
38 protocols in the event of a spill or fire.

1 (3) A producer that supplies batteries to a retailer must, upon
2 request by the retailer, provide the retailer educational materials
3 developed by the battery stewardship organization in consultation
4 with stakeholders describing collection opportunities for batteries
5 or must arrange for the stewardship program implementing the plan in
6 which the producer participates to provide these materials.

7 (4) If multiple battery stewardship organizations are
8 implementing plans approved by the department, the battery
9 stewardship organizations must coordinate in carrying out their
10 education and outreach responsibilities under this section and must
11 include in their annual reports to the department under section 10 of
12 this act a summary of their coordinated education and outreach
13 efforts.

14 (5) During the first year of program implementation and every
15 five years thereafter, each battery stewardship organization must
16 carry out a survey of public awareness regarding the requirements of
17 the program established under this chapter, including the provisions
18 of section 15 of this act. Each battery stewardship organization must
19 share the results of the public awareness surveys with the
20 department.

21 NEW SECTION. **Sec. 10.** REPORTING REQUIREMENTS. (1) By June 1,
22 2027, and each June 1st thereafter, each battery stewardship
23 organization must submit an annual report to the department covering
24 the preceding calendar year of battery stewardship plan
25 implementation. The report must include:

26 (a) An independent financial audit of a program implemented by
27 the battery stewardship organization, including a breakdown of the
28 program's expenses, such as collection, recycling, education, and
29 overhead, when required by the department;

30 (b) A summary financial statement documenting the financing of a
31 battery stewardship organization's program and an analysis of program
32 costs and expenditures, including an analysis of the program's
33 expenses, such as collection, transportation, recycling, education,
34 and administrative overhead. The summary financial statement must be
35 sufficiently detailed to provide transparency that funds collected
36 from producers as a result of their activities in Washington are
37 spent on program implementation in Washington. Battery stewardship
38 organizations implementing similar battery stewardship programs in
39 multiple states may submit a financial statement including all

1 covered states, as long as the statement breaks out financial
2 information pertinent to Washington;

3 (c) The weight, by chemistry, of covered batteries collected
4 under the program;

5 (d) The weight of materials recycled from covered batteries
6 collected under the program, in total, and by battery recycling
7 process;

8 (e) A calculation of the recycling efficiency rate, as measured
9 consistent with subsection (2) of this section;

10 (f) For each facility used for the final disposition of
11 batteries, a description of how the facility recycled or otherwise
12 disposed of batteries and battery components;

13 (g) The weight and chemistry of batteries sent to each facility
14 used for the final disposition of batteries. The information in this
15 subsection (1)(g) may be approximated for program operations in
16 Washington based on extrapolations of national or regional data for
17 programs in operation in multiple states;

18 (h) The collection rate achieved by battery chemistry under the
19 program, including a description of how this collection rate was
20 calculated;

21 (i) The estimated aggregate sales, by weight and chemistry, of
22 batteries and batteries contained in or with battery containing
23 products sold in Washington by participating producers for each of
24 the previous three calendar years;

25 (j) A description of the manner in which the collected batteries
26 were managed and recycled, including a discussion of best available
27 technologies and the recycling efficiency rate;

28 (k) A summary of the education and outreach supporting plan
29 implementation, including a description of how that education and
30 outreach met the requirements of section 9 of this act, samples of
31 education and outreach materials, a summary of coordinated education
32 and outreach efforts with any other battery stewardship organizations
33 implementing a plan approved by the department, and a summary of any
34 changes made during the previous calendar year to education and
35 outreach activities;

36 (l) A list of all collection locations and accompanying latitude
37 and longitude data for each listed site, and an up-to-date map
38 indicating the location of all collection sites used to implement the
39 program, with links to appropriate websites where there are existing
40 websites associated with a location;

1 (m) A description of the manner in which the collected batteries
2 were sorted, consolidated, and processed;

3 (n) A summary on progress made towards the program performance
4 goals established under section 6 of this act, and an explanation of
5 why performance goals were not met, if applicable; and

6 (o) An evaluation of the effectiveness of education and outreach
7 activities.

8 (2) (a) The weight of recovered resources from batteries counted
9 towards satisfaction of the recycling efficiency rate requirement
10 must, by the end of a program calendar year, be used:

11 (i) Or destined to be used by a person for the making of products
12 or packaging;

13 (ii) As zinc manganese fertilizer; or

14 (iii) As aggregate. The weight of aggregate may only account for
15 up to 15 percent of the materials counted towards satisfaction of the
16 recycling efficiency rate requirement.

17 (b) The weight of batteries or recovered resources from those
18 batteries must only be counted once and may not be counted by more
19 than one producer.

20 (c) The following may not be counted towards satisfaction of the
21 recycling efficiency rate requirement:

22 (i) The weight of materials that are land disposed;

23 (ii) The weight of materials that are incinerated;

24 (iii) The weight of materials that are used as a fuel or fuel
25 supplement;

26 (iv) The weight of materials that are stored, stockpiled, used as
27 landfill cover, or otherwise deposited on land in a manner that does
28 not meet the criteria of (a) of this subsection.

29 (3) In addition to the requirements of subsection (1) of this
30 section, with respect to each facility used in the processing or
31 disposition of batteries collected under the program, the battery
32 stewardship organization must report:

33 (a) Whether the facility is located domestically, in an
34 organization for economic cooperation and development country, or in
35 a country that meets organization for economic cooperation and
36 development operating standards;

37 (b) Emissions of pollutants to air and water, or other activities
38 that impact public health or the environment. A battery stewardship
39 organization may satisfy the requirement established in this
40 subsection through the submission of data contained in any reporting

1 required under existing permits where applicable, if the permits and
2 reporting are similar to the permits and reporting that would be
3 required of a facility located in the United States; and

4 (c) Labor metrics including, but not limited to, wages, unions,
5 and workforce demographics.

6 (4) If a battery stewardship organization has disposed of covered
7 batteries through energy recovery, incineration, or landfilling during
8 the preceding calendar year of program implementation, the annual
9 report must specify the steps that the battery stewardship
10 organization will take to make the recycling of covered batteries
11 cost-effective, where possible, or to otherwise increase battery
12 recycling rates achieved by the battery stewardship organization.

13 (5) A producer or battery stewardship organization that submits
14 information or records to the department under this chapter may
15 request that the information or records be made available only for
16 the confidential use of the department, the director of the
17 department, or the appropriate division of the department. The
18 director of the department must consider the request and if this
19 action is not detrimental to the public interest and is otherwise in
20 accordance with the policies and purposes of chapter 43.21A RCW, the
21 director must grant the request for the information to remain
22 confidential as authorized in RCW 43.21A.160.

23 NEW SECTION. **Sec. 11.** FEE AND DEPARTMENT OF ECOLOGY ROLE. (1)

24 The department must adopt rules as necessary for the purpose of
25 implementing, administering, and enforcing this chapter. The
26 department must by rule establish fees, to be paid annually by a
27 battery stewardship organization, that are adequate to cover the
28 department's full costs of implementing, administering, and enforcing
29 this chapter. If the department adopts rules that require producers
30 of certain large format batteries to participate in a product
31 stewardship organization regulated by the department, the department
32 may establish fees to be paid annually by a battery stewardship
33 organization that are adequate to cover the department's full costs
34 of implementing, administering, and enforcing the requirements of
35 this chapter applicable to large format batteries. All fees must be
36 based on costs related to implementing, administering, and enforcing
37 this chapter, not to exceed expenses incurred by the department for
38 these activities.

1 (2) The responsibilities of the department in implementing,
2 administering, and enforcing this chapter include, but are not
3 limited to:

4 (a) Reviewing submitted stewardship plans and plan amendments and
5 making determinations as to whether to approve the plan or plan
6 amendment;

7 (i) The department must provide a letter of approval for the plan
8 or plan amendment if it provides for the establishment of a
9 stewardship program that meets the requirements of sections 3 through
10 9 of this act;

11 (ii) If a plan or plan amendment is rejected, the department must
12 provide the reasons for rejecting the plan to the battery stewardship
13 organization. The battery stewardship organization must submit a new
14 plan within 60 days after receipt of the letter of disapproval; and

15 (iii) When a plan or an amendment to an approved plan is
16 submitted under this section, the department shall make the proposed
17 plan or amendment available for public review and comment for at
18 least 30 days;

19 (b) Reviewing annual reports submitted under section 10 of this
20 act within 90 days of submission to ensure compliance with that
21 section;

22 (c)(i) Maintaining a website that lists producers and their
23 brands that are participating in an approved plan, and that makes
24 available to the public each plan, plan amendment, and annual report
25 received by the department under this chapter;

26 (ii) Upon the date the first plan is approved, the department
27 must post on its website a list of producers and their brands for
28 which the department has approved a plan. The department must update
29 the list of producers and brands participating under an approved
30 program plan based on information provided to the department from
31 battery stewardship organizations; and

32 (d) Providing technical assistance to producers and retailers
33 related to the requirements of this chapter and issuing orders or
34 imposing civil penalties authorized under section 12 of this act
35 where the technical assistance efforts do not lead to compliance by a
36 producer or retailer.

37 NEW SECTION. **Sec. 12.** PENALTIES AND CIVIL ACTION PROVISIONS.

38 (1)(a) A battery stewardship organization implementing an approved
39 plan may bring a civil action or actions to recover costs, damages,

1 and fees, as specified in this section, from a producer who sells or
2 otherwise makes available in Washington covered batteries, battery
3 containing products, or large format batteries not included in an
4 approved plan in violation of the requirements of this chapter. An
5 action under this section may be brought against one or more
6 defendants. An action may only be brought against a defendant
7 producer when the stewardship program incurs costs in Washington,
8 including reasonable incremental administrative and program
9 promotional costs, in excess of \$1,000 to collect, transport, and
10 recycle or otherwise dispose of the covered batteries, battery
11 containing products, or large format batteries of a nonparticipating
12 producer.

13 (b) A battery stewardship organization may only bring a civil
14 action authorized under (a) of this subsection if the most recent
15 annual report filed with and approved by the department indicates
16 that the battery stewardship organization has achieved the collection
17 rate performance goal established consistent with section 6 of this
18 act.

19 (c) A battery stewardship organization implementing an approved
20 stewardship plan may bring a civil action against another battery
21 stewardship organization that underperforms on its battery collection
22 obligations under this chapter by failing to collect and provide for
23 the end-of-life management of batteries in an amount roughly
24 equivalent to the national market share of the batteries of producers
25 participating in the plan.

26 (d) The remedies provided in this subsection are in addition to
27 the enforcement authority of the department and do not limit and are
28 not limited by a decision by the department to impose a civil penalty
29 or issue an order under subsection (2) of this section. The
30 department is not required to audit, participate in, or provide
31 assistance to a battery stewardship organization pursuing a civil
32 action authorized under this subsection.

33 (2) (a) The department may administratively impose a civil penalty
34 on a person who violates this chapter in an amount of up to \$1,000
35 per violation per day.

36 (b) The department may administratively impose a civil penalty of
37 up to \$10,000 per violation per day on a person for repeated
38 violations of this chapter or failure to comply with an order issued
39 under (c) of this subsection.

1 (c) Whenever on the basis of any information the department
2 determines that a person has violated or is in violation of this
3 chapter, the department may issue an order requiring compliance. A
4 person who fails to take corrective action as specified in a
5 compliance order is liable for a civil penalty as provided in (b) of
6 this subsection, without receiving a written warning prescribed in
7 (e) of this subsection.

8 (d) A person who is issued an order or incurs a penalty under
9 this section may appeal the order or penalty to the pollution control
10 hearings board established by chapter 43.21B RCW.

11 (e) Prior to imposing penalties under this section, the
12 department must provide a producer, retailer, or battery stewardship
13 organization with a written warning for the first violation by the
14 producer, retailer, or battery stewardship organization of the
15 requirements of this chapter. The written warning must inform a
16 producer, retailer, or battery stewardship organization that it must
17 participate in an approved plan or otherwise come into compliance
18 with the requirements of this chapter within 30 days of the notice. A
19 producer, retailer, or battery stewardship organization that violates
20 a provision of this chapter after the initial written warning may be
21 assessed a penalty as provided in this subsection.

22 (3) Penalties levied under subsection (2) of this section must be
23 deposited in the responsible battery management account created in
24 section 13 of this act.

25 NEW SECTION. **Sec. 13.** RESPONSIBLE BATTERY MANAGEMENT ACCOUNT.

26 The responsible battery management account is created in the custody
27 of the state treasurer. All receipts from activities undertaken
28 consistent with chapter 70A.--- RCW (the new chapter created in
29 section 22 of this act) must be deposited in the account. Only the
30 director of the department or the director's designee may authorize
31 expenditures from the account. The account is subject to allotment
32 procedures under chapter 43.88 RCW, but an appropriation is not
33 required for expenditures. Moneys in the account may be used solely
34 by the department for administering, implementing, and enforcing the
35 requirements of this chapter. Funds in the account may not be
36 diverted for any purpose or activity other than those specified in
37 this section.

1 NEW SECTION. **Sec. 14.** MARKING REQUIREMENTS FOR BATTERIES. (1)

2 Beginning January 1, 2027, a producer or retailer may only sell,
3 distribute, or offer for sale in or into Washington a large format
4 battery, covered battery, or battery containing product that contains
5 a battery that is designed or intended to be easily removable from
6 the product, if the battery is:

7 (a) Marked, including with a color code mark beginning January 1,
8 2029, to identify the chemistry employed in storing energy in the
9 battery;

10 (b) Marked with an identification of the producer of the battery,
11 unless the battery is less than .5 inch in diameter or does not
12 contain a surface whose length exceeds .5 inch;

13 (c) Marked with the weight and watt-hour rating of the battery,
14 for batteries that exceed 300 watt hours or 11 pounds in weight; and

15 (d) Labeled to clearly indicate that the battery is recyclable
16 and should not be disposed of in solid waste or recycling containers
17 other than stewardship program collection containers.

18 (2) The department may amend, by rule, the requirements of
19 subsection (1) of this section to maintain consistency with the
20 labeling requirements or voluntary standards for batteries
21 established in federal law or the laws of other states, or an
22 international battery labeling standard.

23 NEW SECTION. **Sec. 15.** REQUIREMENT TO USE BATTERY COLLECTION

24 PROGRAMS. Effective July 1, 2026, for portable batteries and July 1,
25 2028, for medium format batteries, or the first date on which an
26 approved plan begins to be implemented under this chapter by a
27 battery stewardship organization, whichever comes first:

28 (1) All persons, residents, businesses, and government,
29 commercial, industrial, and retail facilities, and office buildings
30 must dispose of unwanted covered batteries through the collection
31 locations established by the programs created by this chapter, except
32 commercial, industrial, or government facilities and programs that
33 utilize other responsible battery management arrangements.

34 (2) A person may not place covered batteries in waste containers
35 for disposal at incinerators, waste to energy facilities, or
36 landfills.

37 (3) A person may not place covered batteries in or on a container
38 for mixed nonbattery recyclables unless there is a separate location

1 or compartment for the covered battery that complies with local
2 government collection standards or guidelines.

3 (4) An owner or operator of a solid waste facility may not be
4 found in violation of this section if the facility has posted in a
5 conspicuous location a sign stating that covered batteries must be
6 managed through collection locations established by a stewardship
7 organization and are not accepted for disposal.

8 (5) A solid waste collector may not be found in violation of this
9 section for a covered battery placed in a disposal container by the
10 generator of the covered battery.

11 NEW SECTION. **Sec. 16.** DEPARTMENT OF COMMERCE ASSESSMENT OF
12 LARGE FORMAT BATTERIES, MEDICAL DEVICES, AND BATTERY-CONTAINING
13 PRODUCTS AND THEIR BATTERIES. (1) By July 1, 2026, the department of
14 commerce must complete an assessment of the opportunities and
15 challenges associated with the end-of-life management of large format
16 batteries. The department of commerce must consult with the
17 department and interested stakeholders in completing the assessment,
18 including consultation with overburdened communities and vulnerable
19 populations identified by the department under chapter 70A.02 RCW.
20 The assessment must identify any needed adjustments to the
21 stewardship program requirements established in this chapter that are
22 necessary to maximize public health, safety, and environmental
23 benefits, such as battery reuse. The assessment must analyze how to
24 design stewardship program requirements to encourage the development
25 of battery technology that reduces reliance on rare earth and
26 conflict materials and uses more earth abundant materials. The
27 assessment must survey existing studies of large format batteries,
28 including studies completed by the state of California, and include
29 the department of commerce's analysis of:

- 30 (a) The different categories and uses of large format batteries;
31 (b) The current economic value and reuse or recycling potential
32 of large format batteries or large format battery components;
33 (c) The current methods by which unwanted large format batteries
34 are managed in Washington and nearby states and provinces;
35 (d) The risks to human health and the environment if an
36 accessible, safe, and verifiable end-of-life management system is not
37 instituted statewide for large format batteries;
38 (e) Challenges posed by the potential collection, management, and
39 transport of large format batteries, including challenges associated

1 with removing large format batteries that were not intended or
2 designed to be easily removable from products containing large format
3 batteries, other than by the manufacturer;

4 (f) The environmental and equity implications of displacing
5 demand for new rare earth materials, critical materials, and other
6 conflict materials through the reuse and recycling of batteries; and

7 (g)(i) Which criteria of this chapter should apply to large
8 format batteries in a manner that is identical or analogous to the
9 requirements applicable to covered batteries; and

10 (ii) Which criteria of this chapter should not apply in any
11 manner to large format batteries.

12 (2)(a) By July 1, 2026, the department of commerce must complete
13 an assessment of the opportunities and challenges associated with the
14 end-of-life management of:

15 (i) Battery containing products;

16 (ii) Batteries contained in medical devices, as specified in
17 Title 21 U.S.C. Sec. 360c as it existed as of the effective date of
18 this section; and

19 (iii) Batteries not intended or designed to be easily removed by
20 a customer that are contained in battery-containing products,
21 including medical devices, and in covered electronic products that
22 are not managed under an approved plan implemented under chapter
23 70A.500 RCW.

24 (b) The department of commerce must consult with the department
25 and interested stakeholders in completing the assessment, including
26 consultation with overburdened communities and vulnerable populations
27 identified by the department under chapter 70A.02 RCW. The assessment
28 must consider: Public health, safety, and environmental benefits,
29 such as battery reuse; current methods by which unwanted batteries
30 and products are managed in Washington and nearby states and
31 provinces; the economic value and reuse or recycling potential of the
32 batteries and products identified; and the opportunities and
33 challenges posed by the potential collection, management, and
34 transport of the batteries and products.

35 (3) By October 1, 2026, the department of commerce must submit a
36 report to the department and the appropriate committees of the
37 legislature containing the findings of the assessment required in
38 subsections (1) and (2) of this section.

1 NEW SECTION. **Sec. 17.** DEPARTMENT OF ECOLOGY RULE MAKING TO
2 REQUIRE THE ESTABLISHMENT OF STEWARDSHIP PROGRAM PARTICIPATION
3 REQUIREMENTS FOR LARGE FORMAT BATTERIES. (1) By January 1, 2029, the
4 department may, but is not required to, adopt rules that require
5 producers of large format batteries to participate in a stewardship
6 program that achieves environmentally positive outcomes similar to
7 those achieved by a battery stewardship program for medium format and
8 portable batteries. As part of this rule, the department may apply
9 some or all of the provisions of section 15 of this act to large
10 format batteries.

11 (2) Any rules adopted by the department under this section must
12 require producers of large format batteries to participate in a
13 stewardship program by no earlier than July 1, 2030. The department
14 must submit a report to the appropriate committees of the legislature
15 by July 1, 2029, addressing any proposed product stewardship program
16 for large format batteries that may be established by any rules
17 adopted by the department.

18 (3) In adopting rules, the department must consider the results
19 of the assessment by the department of commerce required under
20 section 16 of this act and involve the expertise of the department's
21 recycling development center created in chapter 70A.240 RCW.

22 (4) The department must delay or exclude categories of large
23 format batteries, including categories of large format batteries that
24 are excluded from the definition of a covered battery in section 2 of
25 this act, based on the results of the assessment by the department of
26 commerce required under section 16 of this act, from stewardship
27 program requirements, if the department determines that stewardship
28 program requirements are infeasible for a category of large format
29 batteries due to:

30 (a) An existing industry or other battery management system
31 exists for a category of large format batteries that currently
32 attains a rate of collection that exceeds 95 percent of the number of
33 that category of batteries sold in Washington each year, and the
34 existing battery management system processes the batteries using
35 environmentally sound management practices; or

36 (b) If delay or exclusion from program participation requirements
37 is necessary to protect human health or the environment.

38 (5) The department must exclude from any rules adopted by the
39 department under this section any large format batteries contained in
40 or originating from electric vehicles if, by July 1, 2029, electric

1 vehicle batteries are managed under state law in a manner that
2 achieves similar outcomes to the program created in this chapter.

3 (6) In addition to the exemptions established in subsections (4)
4 and (5) of this section, the department may exclude producers of
5 large format batteries from some or all of the stewardship program
6 requirements under the rules adopted by the department, based on
7 other factors determined by the department.

8 NEW SECTION. **Sec. 18.** ANTITRUST. Producers or battery
9 stewardship organizations acting on behalf of producers that prepare,
10 submit, and implement a battery stewardship program plan pursuant to
11 this chapter and who are thereby subject to regulation by the
12 department are granted immunity from state laws relating to
13 antitrust, restraint of trade, unfair trade practices, and other
14 regulation of trade and commerce, for the limited purpose of
15 planning, reporting, and operating a battery stewardship program,
16 including:

17 (1) The creation, implementation, or management of a battery
18 stewardship organization and any battery stewardship plan regardless
19 of whether it is submitted, denied, or approved;

20 (2) The cost and structure of a battery stewardship plan; and

21 (3) The types or quantities of batteries being recycled or
22 otherwise managed pursuant to this chapter.

23 **Sec. 19.** RCW 43.21B.110 and 2021 c 316 s 41 and 2021 c 313 s 16
24 are each reenacted and amended to read as follows:

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

32 (a) Civil penalties imposed pursuant to RCW 18.104.155,
33 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070,
34 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080,
35 70A.65.200, 76.09.170, 77.55.440, 78.44.250, 88.46.090, 90.03.600,
36 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102 and chapter
37 70A.--- RCW (the new chapter created in section 22 of this act).

1 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
2 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070,
3 70A.245.020, 70A.65.200, 86.16.020, 88.46.070, 90.14.130, 90.46.250,
4 90.48.120, and 90.56.330 and chapter 70A.--- RCW (the new chapter
5 created in section 22 of this act).

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

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

16 (e) Decisions of local health departments regarding the issuance
17 and enforcement of permits to use or dispose of biosolids under RCW
18 70A.226.090.

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

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

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

32 (i) Decisions of the department of natural resources, the
33 department of fish and wildlife, and the department that are
34 reviewable under chapter 76.09 RCW, and the department of natural
35 resources' appeals of county, city, or town objections under RCW
36 76.09.050(7).

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

39 (k) Decisions of the department of fish and wildlife to issue,
40 deny, condition, or modify a hydraulic project approval permit under

1 chapter 77.55 RCW, to issue a stop work order, to issue a notice to
2 comply, to issue a civil penalty, or to issue a notice of intent to
3 disapprove applications.

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

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

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

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

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

19 (b) Hearings conducted by the department pursuant to RCW
20 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,
21 70A.15.3110, and 90.44.180.

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

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

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

29 **Sec. 20.** RCW 43.21B.300 and 2021 c 316 s 42 and 2021 c 313 s 17
30 are each reenacted and amended to read as follows:

31 (1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160,
32 70A.205.280, 70A.300.090, 70A.20.050, 70A.245.040, 70A.245.050,
33 70A.245.070, 70A.245.080, 70A.65.200, 88.46.090, 90.03.600,
34 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102 and
35 chapters 70A.355 and 70A.--- RCW (the new chapter created in section
36 22 of this act) shall be imposed by a notice in writing, either by
37 certified mail with return receipt requested or by personal service,
38 to the person incurring the penalty from the department or the local
39 air authority, describing the violation with reasonable

1 particularity. For penalties issued by local air authorities, within
2 thirty days after the notice is received, the person incurring the
3 penalty may apply in writing to the authority for the remission or
4 mitigation of the penalty. Upon receipt of the application, the
5 authority may remit or mitigate the penalty upon whatever terms the
6 authority in its discretion deems proper. The authority may ascertain
7 the facts regarding all such applications in such reasonable manner
8 and under such rules as it may deem proper and shall remit or
9 mitigate the penalty only upon a demonstration of extraordinary
10 circumstances such as the presence of information or factors not
11 considered in setting the original penalty.

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

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

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

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

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

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

38 (5) All penalties recovered shall be paid into the state treasury
39 and credited to the general fund except those penalties imposed
40 pursuant to RCW 18.104.155, which shall be credited to the

1 reclamation account as provided in RCW 18.104.155(7), RCW
2 70A.15.3160, the disposition of which shall be governed by that
3 provision, RCW 70A.245.040 and 70A.245.050, which shall be credited
4 to the recycling enhancement account created in RCW 70A.245.100, RCW
5 70A.300.090, which shall be credited to the model toxics control
6 operating account created in RCW 70A.305.180, RCW 70A.65.200, which
7 shall be credited to the climate investment account created in RCW
8 70A.65.250, RCW 90.56.330, which shall be credited to the coastal
9 protection fund created by RCW 90.48.390, chapter 70A.--- RCW (the
10 new chapter created in section 22 of this act), which shall be
11 credited to the responsible battery management account created in
12 section 13 of this act, and RCW 70A.355.070, which shall be credited
13 to the underground storage tank account created by RCW 70A.355.090.

14 NEW SECTION. **Sec. 21.** A new section is added to chapter 82.04
15 RCW to read as follows:

16 (1) This chapter does not apply to the receipts of a battery
17 stewardship organization formed under chapter 70A.--- RCW (the new
18 chapter created in section 22 of this act) from charges to
19 participating producers under a battery stewardship program as
20 provided in section 7 of this act.

21 (2) This section is not subject to the requirements of
22 RCW 82.32.805 and 82.32.808 and is not subject to an expiration date.

23 (3) The definitions in section 2 of this act apply throughout
24 this section unless the context clearly requires otherwise.

25 NEW SECTION. **Sec. 22.** CODIFICATION. Sections 1 through 18 of
26 this act constitute a new chapter in Title 70A RCW.

27 NEW SECTION. **Sec. 23.** SEVERABILITY. If any provision of this
28 act or its application to any person or circumstance is held invalid,
29 the remainder of the act or the application of the provision to other
30 persons or circumstances is not affected."

31 Correct the title.

EFFECT: Amends the definitions of the three different battery categories to use watt-hours as a defining criteria only for purposes of rechargeable batteries, rather than both primary and rechargeable batteries.

Exempts all batteries contained in medical devices from stewardship program participation and associated battery collection and management requirements.

Authorizes, rather than requires, retailers to provide information to customers regarding the battery stewardship program at the time of sale of covered batteries and battery containing products.

Requires battery stewardship organizations to make available signage and other promotional materials for use by retailers as a means of informing customers of covered batteries regarding the end-of-life management options for covered batteries collected by the program.

Requires collection sites under the battery stewardship program to use signage supplied by the battery stewardship organization to inform customers about the battery stewardship program.

Authorizes, rather than requires, the Department of Ecology (Ecology) to adopt by rule fees to be paid by battery stewardship organizations implementing any requirements adopted by Ecology for large format batteries.

Requires Ecology's rules applicable to large-format batteries to exclude electric vehicle batteries if, by July 1, 2029, electric vehicle batteries are managed under state law in a manner similar to the state's program for lead-acid vehicle batteries or through another program that establishes environmentally positive outcomes.

Requires the Department of Commerce, in addition to its assessment of large-format batteries, to complete an assessment and report to the Legislature by 2026 addressing: (1) Battery-containing products; (2) batteries in battery-containing products that are not easily removable from the battery-containing product by a customer; and (3) batteries contained in medical devices.

Exempts receipts from producers by the battery stewardship organization from state Business and Occupation tax.

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