
HOUSE BILL 2116

State of Washington

67th Legislature

2022 Regular Session

By Representatives Thai and Pollet

Read first time 02/03/22. Referred to Committee on Environment & Energy.

1 AN ACT Relating to the commercial use of nonbiodegradable
2 packaging; and adding a new chapter to Title 70A RCW.

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

4 NEW SECTION. **Sec. 1.** (1) Plastic and styrofoam represent a
5 disturbing trend in recent years: The prioritization of convenience
6 and cost efficiency over environmental preservation. Our state is
7 experiencing an overflow of landfills that leads to high levels of
8 methane and carbon dioxide, dangerous greenhouse gases that
9 facilitate climate change, in addition to rising costs for taxpayers.
10 Compounding the effects on the environment, plastic and other forms
11 of nonbiodegradable packaging are often found to contaminate bodies
12 of water, threaten marine wildlife, and lead to an imbalance of the
13 ecosystem.

14 (2) The exponential growth of landfills places a growing economic
15 burden on urban communities to bear the rising cost of these
16 environmentally dangerous landfills coupled with the health impacts
17 of climate change. The loss of marine wildlife will
18 disproportionately affect food safety and coastal tourism, both
19 sources of vital revenue for communities and cities.

20 (3) The longer we delay definitive action to reduce
21 nonbiodegradable waste, the more prevalent and entrenched the threat

1 becomes, and the more costly it will be to protect and maintain the
2 well-being of our citizens and communities against the harms of
3 plastic and nonbiodegradable waste. If left unchecked,
4 nonbiodegradable waste will lead to a decline in the health and
5 prosperity of future generations, especially for coastal and urban
6 communities.

7 (4) According to Puget Sound keeper, in a study conducted in
8 2019-2020, it was found that from 69 samples taken from the area
9 surrounding Puget Sound, all were found to have microplastics.
10 Microplastics often facilitate:

11 (a) The spread of toxins like polycyclic aromatic hydrocarbons,
12 commonly found in coal, crude oil, and gasoline, and polychlorinated
13 biphenyls, found in coolant liquids, oil-based paints, and
14 fluorescent lights;

15 (b) Bioaccumulation and biomagnification of toxins that,
16 according to studies by environment international, have been shown to
17 be carcinogenic and mutagenic;

18 (c) Harm to the immune systems of animals, provided the size is
19 smaller than five millimeters, which leads to viral infections and
20 sometimes death.

21 (5) The legislature has taken steps to understand and address the
22 threats posed by nonbiodegradable packaging as science, studying its
23 impact and effects, has continued to develop. With the passage of
24 chapter 138, Laws of 2020, the legislature took steps to address the
25 widespread issue of indiscriminate pollution of plastic bags in
26 bodies of water throughout the state.

27 (6) The legislature finds that avoiding the increase of
28 nonbiodegradable waste is only possible if restrictions on its role
29 in packaging are implemented. Repairing and eliminating the effects
30 of nonbiodegradable waste in our environment will require
31 mobilization across all levels of government and many economic
32 sectors, including manufacturing and restaurants to reach a net zero
33 increase of nonbiodegradable waste from packaging by 2030. Washington
34 must therefore raise its standards for the widespread implementation
35 of biodegradable alternatives in the next decade.

36 (7) In strengthening Washington standards for the use of
37 biodegradable materials in packaging, it is the intent of the
38 legislature to pursue these limits in a way that: Reduces the burdens
39 placed on vulnerable populations and highly impacted communities with

1 long-term and short-term benefits and improvements to economic well-
2 being, the environment, and public health.

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

6 (1) (a) "Biodegradable packaging" includes any container or
7 wrapping in which any consumer commodity is enclosed for use in the
8 delivery or display of that consumer commodity to retail purchasers,
9 and at least 90 percent of the organic carbon in the material must be
10 converted to carbon dioxide within 180 days.

11 (b) "Biodegradable packaging" does not include:

12 (i) Shipping containers or wrappings used solely for the
13 transportation of any consumer commodity in bulk or in quantity to
14 manufacturers, packers, or processors, or to wholesale or retail
15 distributors thereof;

16 (ii) Shipping containers or outer wrappings used by retailers to
17 ship or deliver any commodity to retail customers if such containers
18 and wrappings bear no printed matter pertaining to any particular
19 commodity; or

20 (iii) Containers subject to the provisions of 15 U.S.C. Sec.
21 231-233 or 234-236.

22 (2) "Business" includes any activity, enterprise, or organization
23 with the aim of making a profit. For purposes of RCW 42.17A.405, if
24 it conducts continuous or substantial activities in Washington state
25 of such character as to give rise to a legal obligation.

26 (3) "Department" means the Washington state department of
27 commerce.

28 (4) "Doing business" means a business meets one or more of the
29 following criteria and includes, nonexhaustively, the following:

30 (a) Purposefully availing itself of the privilege of conducting
31 business in the state by invoking both benefits and protections of
32 state law;

33 (b) Appointing an agent for service of process in Washington
34 state;

35 (c) Registering as a corporation in Washington state;

36 (d) Operating business locations in Washington state;

37 (e) Hiring employees to work in Washington state;

38 (f) Purchasing or selling goods or services in Washington state;

39 or

1 (g) Operating a transactional internet website for the purpose of
2 conducting business within Washington state.

3 (5) (a) "Producer" means any person or business that manufactures
4 plastic products for people, other companies, or for import into the
5 state.

6 (b) (i) If the producer manufactures and sells the product, they
7 must abide by both standards under producers and sellers.

8 (ii) If the producer is not the brand owner, the producer is
9 still responsible for following the requirements for producers,
10 specified in this chapter.

11 (c) This does not apply to state governments.

12 (6) "Seller" means any person, business, or brand owner that
13 distributes plastic products to other businesses, people, or into the
14 state.

15 (a) Even if the brand is not registered under the state, they
16 must comply with the requirements of this subsection.

17 (b) If the seller also manufactures products containing plastic,
18 they must abide by the standards under both producers and sellers.

19 (7) "Small business" means an in-state business, including a sole
20 proprietorship, corporation, partnership, or other legal entity,
21 that:

22 (a) Certifies, under penalty of perjury, that it is owned and
23 operated independently from all other businesses and has either:

24 (i) Fifty or fewer employees; or

25 (ii) A gross revenue of less than \$7,000,000 annually as reported
26 on its federal income tax return or its return filed with the
27 department of revenue over the previous three consecutive years;

28 (b) Is certified with the office of minority and women's business
29 enterprises under chapter 39.19 RCW; or

30 (c) If the seller also manufactures products containing plastic,
31 must abide by the standards under both producers and sellers.

32 NEW SECTION. **Sec. 3.** A business must abide by and meet the
33 plastic packaging restrictions as follows:

34 (1) By January 1, 2025, producers must suspend the production and
35 usage of nonrecyclable bubble wrapping or other loose filled,
36 nonbiodegradable packaging material.

37 (2) Businesses may receive nonbiodegradable packaging if it is
38 received from a source outside of the state. However, businesses may

1 not use nonbiodegradable packaging for the shipment of their own
2 goods.

3 (3) By January 1, 2030, both producers and sellers must complete
4 the transition from nonbiodegradable commercial packaging to
5 biodegradable materials.

6 NEW SECTION. **Sec. 4.** (1) The department may adopt rules as
7 necessary to aid in the implementation of this chapter.

8 (2) The department must achieve the following:

9 (a) Erect a board to facilitate the implementation and planning
10 of policy.

11 (b) Provide semiannual reports regarding the fiscal status and
12 impact of implementation of this chapter to the governor.

13 (c) By January 1, 2023, prepare a packaging reduction plan that
14 details transition to 100 percent biodegradable packaging and
15 necessary actions, read and approved by the governor.

16 (d) Update the packaging reduction plan consistently to reflect
17 current statuses and actions required to achieve goals.

18 (e) Track progress towards meeting the requirements identified in
19 section 3 of this act to be listed on the public website. Progress
20 reports must include monthly and annual statuses along with projected
21 trajectory.

22 NEW SECTION. **Sec. 5.** (1) Beginning September 1, 2028, and each
23 September 1st thereafter, each producer must submit an annual report
24 to the department for the preceding calendar year of plan
25 implementation activities. The annual report must include plan
26 implementation activities as required by this chapter.

27 (2) Each annual report must include the following information:

28 (a) The quantity of covered products supplied:

29 (i) As well as a list and brief explanation of the products sold
30 to consumers in or into the state by each producer;

31 (ii) By material category, of material managed by the program for
32 usage in creating the product;

33 (b) A description of how the:

34 (i) Producers will fulfill the requirements of this chapter;

35 (ii) Producers will increase the reuse, refill, and recyclability
36 of covered products; and

37 (c) A description of actions to be taken to work with and achieve
38 the goals of underserved and underrepresented communities that bear a

1 disproportionate share of adverse environmental impacts through
2 product management practices.

3 NEW SECTION. **Sec. 6.** Sections 1 through 5 of this act
4 constitute a new chapter in Title 70A RCW.

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