
SENATE BILL 5058

State of Washington

69th Legislature

2025 Regular Session

By Senators Chapman, Wellman, Harris, and Boehnke

Prefiled 12/16/24.

1 AN ACT Relating to implementing strategies to achieve higher
2 recycling rates within Washington's existing solid waste management
3 system; amending RCW 70A.245.020, 70A.245.030, 70A.245.010, and
4 81.77.195; reenacting and amending RCW 43.21B.110; adding new
5 sections to chapter 70A.245 RCW; adding a new chapter to Title 70A
6 RCW; creating a new section; and prescribing penalties.

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

8 **PART 1**

9 **INTENT**

10 NEW SECTION. **Sec. 101.** INTENT. (1) The legislature finds that:

11 (a) Washington state has been a leader in recycling policy,
12 reaching the goal of 50 percent recycling set by the legislature in
13 RCW 70A.205.005. The legislature further finds that, since meeting
14 the state's goal to achieve a 50 percent recycling rate, global
15 market conditions have caused the recycling rate to fall below 50
16 percent, demonstrating the dependence of recycling rates on reliable,
17 consistent recycling markets for recyclable materials;

18 (b) New goals and target recycling rates must be established and
19 a comprehensive needs assessment is necessary to implement

1 improvements to Washington's existing recycling system to reach those
2 goals;

3 (c) Programs, activities, or projects that reduce greenhouse gas
4 emissions from the solid waste sector, including a comprehensive
5 needs assessment, are intended to be funded from the climate
6 commitment account;

7 (d) 88 percent of Washington residents living in single-family
8 homes and 77 percent living in multifamily residences have access to
9 curbside recycling services through a robust regulatory structure
10 that ensures equal access to services at affordable rates; and

11 (e) The investments in infrastructure by Washington companies has
12 led to the development of materials sorting and processing superior
13 to most other states.

14 (2)(a) The legislature finds that contamination in the recycling
15 stream is a major impediment to higher recovery rates.

16 (b) It is the intent of the legislature to implement proven
17 strategies to address these challenges, including:

18 (i) The establishment of a single statewide list of materials for
19 recyclables collected through Washington's curbside recycling system
20 to reduce confusion and increase participation;

21 (ii) A robust needs assessment unique to Washington state to
22 determine costs and investments necessary to achieve a 65 percent
23 overall recycling rate for packaging;

24 (iii) Study the use of recycling symbols on packaging that cannot
25 be readily recycled through Washington's recycling system; and

26 (iv) The expansion of the successful recycled content
27 requirements to ensure more materials are manufactured with
28 postconsumer material.

29 (3) It is the intent of the legislature that:

30 (a) Producers increase the use of postconsumer recycled content
31 in their products, to achieve the goals in RCW 70A.520.010(2) and to
32 create strong markets for recycled materials and achieve
33 environmental benefits; and

34 (b) Through design and innovation, producers will reduce the use
35 and climate impact of consumer packaging and paper products and
36 increase the use of postconsumer recycled content.

37 (4) Finally, it is the intent of the legislature that Washington
38 should maintain the successful public-private partnership between
39 state, local government, and solid waste and recycling service
40 providers. The legislature does not intend to diminish or displace

1 the primary role of the utilities and transportation commission and
2 local governments in regulating or contracting directly with service
3 providers for the curbside collection of residential recyclables.
4 Local governments maintain their existing authority to collect,
5 contract for collection with solid waste and recycling service
6 providers, or defer to solid waste collection services regulated by
7 the utilities and transportation commission.

8 (5) Therefore, it is the intent of the legislature to implement
9 proven strategies to address these challenges, including:

10 (a) A robust needs assessment unique to Washington state to
11 determine costs and investments necessary to achieve a 65 percent
12 overall recycling rate for packaging; and

13 (b) The expansion of the successful recycled content requirements
14 to ensure more materials are manufactured with postconsumer material.

15 PART 2

16 RATES STUDY, MATERIALS LIST, AND NEEDS ASSESSMENT

17 NEW SECTION. **Sec. 201.** DEFINITIONS. The definitions in this
18 section apply throughout this chapter unless the context clearly
19 requires otherwise.

20 (1) "Consumable product" means a commodity that is intended to be
21 used and not disposed of.

22 (2) "Contaminant" means a material set out for curbside recycling
23 collection that is not on the list of materials accepted for
24 recycling collection by a recycling collection program.

25 (3) "Contamination" means the presence of one or more
26 contaminants in a recycling collection or commodity stream in an
27 amount or concentration that negatively impacts the value of the
28 material or negatively impacts a processor's ability to sort that
29 material.

30 (4) "Covered product" means packaging and paper products sold or
31 supplied to consumers for personal, noncommercial use and disposed of
32 through residential curbside or drop-off site collection systems.

33 (5) "Department" means the department of ecology.

34 (6) "Glass" means a covered product made of soda lime glass.

35 (7) "Material category" means a group of covered products that
36 have similar properties such as chemical composition, shape, or other
37 characteristics.

1 (8) "Overburdened community" means an overburdened community
2 identified and prioritized by the department under RCW
3 70A.02.050(1)(a).

4 (9)(a) "Packaging" means a material, substance, or object that
5 is:

6 (i) Used to protect, contain, transport, or serve an item;

7 (ii) Sold or supplied to consumers expressly for the purpose of
8 protecting, containing, transporting, or serving items;

9 (iii) Attached to an item or its container for the purpose of
10 marketing or communicating information about the item;

11 (iv) Supplied at the point of sale to facilitate the delivery of
12 the item; or

13 (v) Supplied to or purchased by consumers expressly for the
14 purpose of facilitating food or beverage consumption that is
15 ordinarily discarded by consumers after a single use or short-term
16 use, whether or not it could be reused.

17 (b) "Packaging" does not include:

18 (i) Materials intended to be used for the long-term storage or
19 protection of a durable product, that is intended to transport,
20 protect, or store the durable product on an ongoing basis, and that
21 can be expected to be usable for that purpose for a period of at
22 least five years;

23 (ii) For purposes of this chapter only, materials used to package
24 pesticide products regulated by the federal insecticide, fungicide,
25 and rodenticide act, 7 U.S.C. Sec. 136 et seq., that are in direct
26 contact with the regulated product. This exemption does not include
27 products regulated by the United States food and drug administration;

28 (iii) Liquefied petroleum gas containers that are designed to be
29 refilled and reused;

30 (iv)(A) Packaging for drugs that are used for animal medicines
31 including parasiticide products for animals; and

32 (B) Packaging for products intended for animals that are
33 regulated as animal drugs, biologics, parasiticides, medical devices,
34 or diagnostics used to treat, or administered to, animals under the
35 federal food, drug, and cosmetic act, 21 U.S.C. Sec. 301 et seq., the
36 federal insecticide, fungicide, and rodenticide act, 7 U.S.C. Sec.
37 136 et seq., or the federal virus-serum-toxin act, 21 U.S.C. Sec. 151
38 et seq., as amended;

39 (v) Packaging for products that are regulated as a medical
40 device, dietary supplement, or drug by the United States food and

1 drug administration under the federal food, drug, and cosmetic act,
2 21 U.S.C. Sec. 321 et seq. or products that are regulated as a
3 biologic or vaccine by the federal food and drug administration under
4 the public health service act, 42 U.S.C. Sec. 201 et seq.;

5 (vi) Packaging related to containers of architectural paint that
6 has been collected by a stewardship organization under the program
7 established in chapter 70A.515 RCW;

8 (vii) Packaging used to contain hazardous or flammable products
9 classified by the 2012 federal occupational safety and health
10 administration hazard communication standard, 29 C.F.R. Sec.
11 1910.1200 (2012).

12 (10) "Paper product" means paper sold or supplied including
13 flyers, brochures, booklets, catalogs, magazines, and all other paper
14 materials except for: (a) Bound books; (b) conservation grade and
15 archival grade paper; (c) newspapers; (d) paper designed for use in
16 building construction; and (e) paper products that, by any common and
17 foreseeable use, could reasonably be anticipated to become unsafe or
18 unsanitary to handle.

19 (11)(a) "Producer" means the following person responsible for
20 compliance with covered product registration and reporting
21 requirements under this chapter for a covered product sold, offered
22 for sale, or distributed in or into this state:

23 (i) If the covered product is sold with the manufacturer's own
24 brand or lacks identification of a brand, the producer is the person
25 who manufactures the covered product;

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

33 (iii) If there is no person described in (a)(i) and (ii) of this
34 subsection over whom the state can constitutionally exercise
35 jurisdiction, the producer is the person who imports or distributes
36 the covered product in or into the state.

37 (b) A person is the "producer" of a covered product sold, offered
38 for sale, or distributed in or into this state, as defined in (a)(i)
39 through (iii) of this subsection, except where another person has
40 mutually signed an agreement with a producer as defined in (a)(i)

1 through (iii) of this subsection that contractually assigns
2 responsibility to the person as the producer, and the person has
3 joined a registered producer responsibility organization as the
4 responsible producer for that covered product under this chapter.

5 (c) "Producer" does not include:

6 (i) Government agencies, municipalities, or other political
7 subdivisions of the state;

8 (ii) Registered 501(c)(3) charitable organizations and 501(c)(4)
9 social welfare organizations; or

10 (iii) De minimis producers that annually sell, offer for sale,
11 distribute, or import in or into the country for sale in Washington:

12 (A) Less than one ton of covered products each year; or

13 (B) That have a global gross revenue of less than \$5,000,000 for
14 the most recent fiscal year of the organization. The department shall
15 calculate an adjusted rate to maintain the small business exemption
16 by the rate of inflation. The adjusted rate must be calculated to the
17 nearest cent using the consumer price index for urban wage earners.
18 Each adjusted rate calculated under this subsection takes effect on
19 the following January 1st.

20 (12) "Vulnerable population" has the same meaning as defined in
21 RCW 70A.02.010.

22 NEW SECTION. **Sec. 202.** ACTIVITIES TO SUPPORT FUTURE INCREASES
23 IN RECOVERY RATES AND RATES STUDY. (1) To inform the future
24 development of strategies to increase recovery rates consistent with
25 the goals established in subsection (2) of this section, the
26 department must:

27 (a) Identify a statewide list of materials suitable for curbside
28 collection services and a statewide list of materials suitable for
29 drop-off collection, consistent with section 203 of this act, to be
30 completed by October 1, 2026;

31 (b) Complete a statewide needs assessment to meet the goal
32 established in subsection (2) of this section and be carried out by a
33 third-party consultant selected by the department, consistent with
34 section 204 of this act, and completed by October 1, 2027; and

35 (c) Begin overseeing the registration and data reporting of
36 producers of packaging, consistent with section 205 of this act.

37 (2)(a) A goal is established for the state to achieve a recycling
38 rate of 65 percent for covered products. The department must, in
39 consultation with the advisory committee established in section 207

1 of this act, identify a methodology for calculating progress towards
2 this goal as part of its duties under section 204 of this act, and
3 must begin tracking and periodically making public the state's
4 progress towards this goal beginning in the year following the
5 initial reporting of data by producers under section 205 of this act.

6 (b) The goals established in this subsection must be used to
7 inform the statewide needs assessment in section 204 of this act.

8 (3) For purposes of implementing this chapter, the department
9 may, where appropriate, use and rely on the recommended recycling
10 rate targets contained in the department's *December 2023 Washington*
11 *Recycling, Reuse, and Source Reduction Target Study and Community*
12 *Input Process*.

13 NEW SECTION. **Sec. 203.** CURBSIDE AND DROP-OFF RECYCLABLE
14 MATERIALS COLLECTION LISTS FOR NEEDS ASSESSMENT. (1) (a) By October 1,
15 2026, the department must develop and publish a:

16 (i) List of recyclable materials suitable for curbside collection
17 from residents in single-family and multifamily residences; and

18 (ii) Separate list of materials suitable for residential drop-off
19 collection.

20 (b) The department must review and update the lists in (a) of
21 this subsection by October 1, 2031, and no less often than every five
22 years thereafter. During the review and update of the lists, the
23 department must newly review each material included on the previous
24 versions of the lists using the factors described in subsection (4)
25 of this section and may only continue to include materials on a list
26 after considering the factors described in subsection (4) of this
27 section.

28 (2) The initial list of materials suitable for curbside
29 collection developed and published under this section must include
30 the following materials:

31 (a) Newspaper;

32 (b) Paperboard and chipboard;

33 (c) Loose paper;

34 (d) Corrugated cardboard;

35 (e) Magazines;

36 (f) Envelopes;

37 (g) Aluminum cans;

38 (h) Tin or steel cans;

39 (i) High density polyethylene plastic containers; and

1 (j) Polyethylene terephthalate containers.

2 (3) The initial list of materials suitable for drop-off
3 residential collection must include the following materials:

4 (a) Glass; and

5 (b) Flexible plastic.

6 (4) In addition to the materials identified under subsections (2)
7 and (3) of this section, the department may identify additional
8 materials for inclusion on a list or remove materials from inclusion
9 on a list based on consultation with the advisory committee
10 established in section 207 of this act, and after considering the
11 following factors:

12 (a) The stability, maturity, accessibility, and viability of
13 responsible end markets;

14 (b) Economic factors;

15 (c) Environmental factors from a life-cycle perspective;

16 (d) The material's compatibility with existing recycling
17 infrastructure;

18 (e) The amount of the material available;

19 (f) The ability for waste generators to easily identify and
20 properly prepare the material;

21 (g) The practicalities of sorting and storing the material;

22 (h) Contamination;

23 (i) Environmental health and safety considerations; and

24 (j) The anticipated yield loss for the material during the
25 recycling process.

26 NEW SECTION. **Sec. 204.** STATEWIDE NEEDS ASSESSMENT. (1) The
27 statewide needs assessment must be consistent with the following
28 requirements:

29 (a) The final scope of the statewide needs assessment must be
30 determined after considering comments and recommendations from
31 stakeholders, each jurisdiction planning under chapter 70A.205 RCW,
32 and the advisory committee established in section 207 of this act;
33 and

34 (b) Stakeholders, jurisdictions planning under chapter 70A.205
35 RCW, and the advisory committee must have the opportunity to review
36 and comment on the draft statewide needs assessment at least 90 days
37 prior to its completion. The advisory committee must have the
38 opportunity to review drafts of the needs assessment and accompanying
39 data used in the needs assessment.

1 (2) The statewide needs assessment must be:

2 (a) Informed by highest achievable recycling rates and
3 recommended targets in the 2023 performance rates study identified in
4 section 202 of this act and rates and other comments suggested by
5 stakeholders and the advisory committee;

6 (b) Limited to covered products collected from residents in
7 single-family and multifamily residences included on the list
8 developed and published by the department in section 202 of this act;

9 (c) Completed only after individual consultation with each
10 jurisdiction planning under chapter 70A.205 RCW; and

11 (d) Accepted from the selected consultant as complete by the
12 department.

13 (3) The statewide needs assessment must:

14 (a) For each jurisdiction planning under chapter 70A.205 RCW,
15 evaluate the capacity, costs, gaps, and needs for the following
16 factors necessary to achieve recycling performance rate
17 recommendations to reach the goal identified under section 202 of
18 this act:

19 (i) Evaluate what services related to the requirements of this
20 chapter are currently being delivered in each county and city
21 planning under chapter 70A.205 RCW and what the costs are for those
22 existing services;

23 (A) Availability and types of recycling services for covered
24 products for residents in single-family and multifamily residences,
25 including whether current services are considered residential or
26 commercial and whether any gaps, costs, or needs are specific to
27 either commercial or residential customer service;

28 (B) The current methods and infrastructure for serving residents,
29 including curbside recycling service areas and material drop-off
30 locations;

31 (C) Any densely populated areas within each jurisdiction in which
32 curbside recycling services for covered products identified by the
33 department on the list developed and published under section 203 of
34 this act are not available or are only partially available;

35 (D) Any areas within each jurisdiction where curbside garbage
36 collection services are offered to residents in single-family and
37 multifamily residences but curbside recycling services are not
38 offered;

39 (ii) Evaluate what new or expanded services and infrastructure
40 are needed in each county and city planning under chapter 70A.205 RCW

1 to meet the target performance rates and what the anticipated costs
2 are for those additional services and infrastructure;

3 (iii) Education and outreach activities, which may include
4 digital mediums on packaging;

5 (iv) Availability and performance of collection, transport, and
6 processing capacity and infrastructure, including consideration of
7 material quality and contamination;

8 (v) Necessary capital investments to existing reuse and recycling
9 infrastructure, and how to maximize the use of existing
10 infrastructure;

11 (b) Compile information related to actual costs for curbside
12 collection services, drop-off collection services, and other
13 information relevant to the funding requirements to achieve
14 performance rates, including costs for various service methods
15 recommended by stakeholders during the study scoping process;

16 (c) Estimate the total costs of investments necessary to reach
17 target rates, within each jurisdiction, as well as ongoing program
18 costs related to labor, equipment, and maintenance. Cost factors and
19 variables to be considered in the estimates include:

20 (i) Population size and density of a local jurisdiction;

21 (ii) Types of households serviced and collection method used;

22 (iii) Distance from a local jurisdiction to the nearest recycling
23 facility;

24 (iv) Whether a jurisdiction pays for transportation and sorting
25 of collected materials and whether it receives a commodity value from
26 processed materials;

27 (v) Geographic location or other variables contributing to
28 regional differences in costs;

29 (vi) Cost increases over time; and

30 (vii) Any other factors as determined to be necessary by the
31 department, with input from stakeholders;

32 (d) (i) Identify cost factors and other variables to be considered
33 in the development of funding estimates for government entities for
34 any services other than curbside collection to be carried out by
35 government entities that may be needed to achieve performance rates
36 developed under section 202 of this act;

37 (ii) Identify methods to consider greenhouse gas emissions and
38 other environmental outcomes associated with potential expansions of
39 curbside recycling services to rural or sparsely populated areas;

1 (e) Compile relevant information to be considered in the
2 development of criteria by the department to determine whether a
3 covered product is recyclable, reusable, or compostable through
4 Washington's curbside recycling collection system. The relevant
5 information to be compiled may include whether covered product
6 materials are:

7 (i) Or may be, collected, separated, and processed in sufficient
8 quantity and quality into a marketable feedstock that can be used in
9 the production of new products; or

10 (ii) Designed in a way that is problematic for reuse, recycling,
11 or composting;

12 (f) Evaluate how the state's existing recycling system can be
13 improved in a socially just manner as it relates to activities
14 required under this chapter. The assessment must:

15 (i) Include meaningful consultation with overburdened communities
16 and vulnerable populations;

17 (ii) Determine conditions and make recommendations including, at
18 minimum:

19 (A) Improving access to the recycling system for women and
20 minority individuals;

21 (B) The sufficiency of local government requirements related to
22 multifamily recycling services and their implementation;

23 (C) Identification of activities that negatively
24 disproportionately impact any community and in particular
25 overburdened communities and vulnerable populations, including new
26 fees, costs, or deposits;

27 (D) Improving the sufficiency of recycling education and outreach
28 programs relative to desired socially just management outcomes;

29 (E) Recommendations for improving socially just management
30 practices and outcomes in the state's recycling system; and

31 (F) Evaluate the extent to which covered products contribute to
32 litter and marine debris. The assessment should draw on available
33 data, assess gaps, and identify strategies for improving prevention
34 and cleanup of litter and marine debris from covered products;

35 (g) Compile information from available data sources on the
36 presence of toxic substances in covered products and their potential
37 negative impacts on reuse, recycling, and composting systems. The
38 information compiled is intended to inform the development of
39 ecomodulation factors that incentivize the reduction of toxic
40 substances that have potentially negative impacts when covered

1 products are managed through reuse, recycling, and composting
2 systems; and

3 (h) Conduct voluntary interviews with service providers of
4 curbside recycling services or recycling processing services within a
5 jurisdiction on costs for additional infrastructure, vehicles, staff,
6 equipment, and other investments to achieve the recycling performance
7 goal established under section 202 of this act.

8 NEW SECTION. **Sec. 205.** COVERED PRODUCT PRODUCER REGISTRATION
9 AND REPORTING. (1) Beginning January 1, 2026, a producer that offers
10 for sale, sells, or distributes in or into Washington covered
11 products must register with the department individually or through a
12 third-party representative registering on behalf of a group of
13 producers.

14 (2) The registration information submitted to the department
15 under this section must include a list of the producers of covered
16 products and the brand names of the covered products represented in
17 the registration submittal. Beginning in 2027, a producer may submit
18 registration information at the same time as the information
19 submitted through the annual reporting in subsection (3) of this
20 section.

21 (3)(a) Beginning April 1, 2027, each producer of covered
22 products, individually or through a third party representing a group
23 of producers, must provide an annual report to the department that
24 includes, by material category, the volume in pounds of covered
25 products sold, offered for sale, or distributed in or into Washington
26 during the preceding calendar year.

27 (b) The report must be submitted in a format and manner
28 prescribed by the department. A manufacturer may submit national data
29 allocated on a per capita basis for Washington to approximate the
30 information required in this subsection if the producer or third-
31 party representative demonstrates to the department that state level
32 data are not available or feasible to generate.

33 (c) The department must post the information reported under this
34 subsection on its website, except as provided in (d) of this
35 subsection.

36 (d) A producer that submits information or records to the
37 department under this chapter may request that the information or
38 records be made available only for the confidential use of the
39 department, the director, or the appropriate division of the

1 department. The director of the department must give consideration to
2 the request and if this action is not detrimental to the public
3 interest and is otherwise in accordance with the policies and
4 purposes of chapter 43.21A RCW, the director must grant the request
5 for the information to remain confidential as authorized in
6 RCW 43.21A.160.

7 NEW SECTION. **Sec. 206.** DEPARTMENT OF ECOLOGY OVERSIGHT. (1) The
8 department shall adopt rules as necessary to administer, implement,
9 and enforce this section and section 205 of this act.

10 (2) (a) The department may conduct audits and investigations for
11 the purpose of ensuring compliance with section 205 of this act.

12 (b) The department shall annually publish a list of registered
13 producers of covered products and associated brand names, their
14 compliance status, and other information the department deems
15 appropriate on the department's website.

16 (3) (a) By January 31, 2026, and every January 31st thereafter,
17 the department must:

18 (i) Prepare an annual workload analysis for public comment that
19 identifies the annual costs it expects to incur to implement,
20 administer, and enforce this section and section 205 of this act, and
21 to carry out its obligations under this chapter;

22 (ii) Determine a total annual fee payment by producers or their
23 third-party representatives that is adequate to cover, but not
24 exceed, the workload identified in (a)(i) of this subsection;

25 (iii) Until rules are adopted under (a)(iv) of this subsection,
26 issue a general order to all entities falling within the definition
27 of producer. The department must equitably determine fee amounts;

28 (iv) By 2028, adopt rules to equitably determine annual fee
29 payments by producers or their third-party representatives. Once such
30 rules are adopted, the general order issued under (a)(iii) of this
31 subsection is no longer effective; and

32 (v) Send notice to producers or their third-party representatives
33 of fee amounts due consistent with either the general order issued
34 under (a)(iii) of this subsection or rules adopted under (a)(iv) of
35 this subsection.

36 (b) The department must:

37 (i) Apply any remaining annual payment funds from the current
38 year to the annual payment for the coming year, if the collected
39 annual payment exceeds the department's costs for a given year; and

1 (ii) Increase annual payments for the coming year to cover the
2 department's costs, if the collected annual payment was less than the
3 department's costs for a given year.

4 (c) By April 1, 2026, and every April 1st thereafter, producers
5 or their third-party representatives must submit a fee payment as
6 determined by the department under (a) of this subsection. Fee
7 payments must be deposited in the packaging recycling oversight
8 account created in section 209 of this act.

9 (4) For producers out of compliance with the registration or
10 reporting requirements of section 205 of this act, the department
11 shall provide written notification and offer information to
12 producers. For the purposes of this section, written notification
13 serves as notice of the violation. The department must issue at least
14 two notices of violation by certified mail prior to assessing a
15 penalty under subsection (5) of this section.

16 (5) The department may assess a penalty in an amount not to
17 exceed \$1,000 for each day for a violation of this section or section
18 205 of this act. Penalties collected under this section must be
19 deposited in the recycling enhancement account created in
20 RCW 70A.245.100.

21 (6) Penalties issued under this section are appealable to the
22 pollution control hearings board established in chapter 43.21B RCW.

23 NEW SECTION. **Sec. 207.** ADVISORY COMMITTEE. (1) An advisory
24 committee is established.

25 (2) The advisory committee consists of members appointed by the
26 department as follows:

27 (a) Four representatives of local governments representing
28 geographic areas across the state, including two representatives of
29 counties and two representatives of cities, each with one
30 representative of urban communities and one representative of rural
31 communities;

32 (b) One representative of tribal or indigenous solid waste
33 services organizations;

34 (c) One representative of special purpose districts involved in
35 activities related to the end-of-life management of solid waste;

36 (d) Two representatives of community-based organizations whose
37 mission is to serve the interests of overburdened communities and
38 vulnerable populations;

39 (e) Two representatives of environmental nonprofit organizations;

1 (f) One owner or operator of a small business that is not
2 eligible for representation under (g), (h), or (i) of this
3 subsection;

4 (g) Six representatives of the recycling industry, including
5 local governments' service providers, solid waste collection
6 companies or associations, material recovery facilities, or other
7 processing facilities;

8 (h) Four representatives of producers of covered products or
9 producer trade associations representing different types of covered
10 products;

11 (i) Two representatives of packaging suppliers that are not
12 producers as defined under this chapter representing different
13 material categories; and

14 (j) One representative of a retail establishment.

15 (3) Advisory committee members must be appointed by the director
16 of the department by September 1, 2026. In appointing members, the
17 department shall:

18 (a) Appoint members that, to the greatest extent practicable,
19 represent diversity in race, ethnicity, age, and gender, urban and
20 rural areas, and different regions of the state; and

21 (b) Consider recommendations for appointments from relevant
22 represented groups or associations and from individuals interested in
23 participating on the advisory committee.

24 (4)(a) The terms of initial appointments must be staggered to
25 two-year and three-year appointments, with subsequent terms of three
26 years. Members are eligible for reappointment.

27 (b) If there is a vacancy for any reason, the department shall
28 make an appointment to become effective immediately for the unexpired
29 term.

30 (5) The advisory committee shall meet at least once every three
31 months at times and places specified by the department. The advisory
32 committee may also meet at other times and places, including
33 virtually, specified by the department or by a call of a majority of
34 the committee members, as necessary, to carry out the duties of the
35 advisory committee.

36 (6)(a) The department shall provide staff support and
37 facilitation as necessary for the advisory committee to carry out its
38 duties.

1 (b) The department may select an impartial, third-party
2 facilitator to convene and provide administrative support to the
3 advisory committee.

4 (c) The department may establish working groups, comprised of
5 interested members of the advisory committee, to discuss issues
6 related to implementation of this chapter, which report back to the
7 full advisory committee including, but limited to, the truth in
8 labeling task force established in section 208 of this act.

9 (7) The duties of the advisory committee include the following:

10 (a) Advise and make recommendations to the department on the
11 lists developed and published by the department under section 203 of
12 this act;

13 (b) Advise and make recommendations to the department on the
14 scope of the statewide needs assessment under section 204 of this
15 act;

16 (c) Review and comment on draft statewide needs assessments prior
17 to their completion;

18 (d) Review and comment on the department's implementation and
19 administration of the registration and reporting requirements in
20 sections 205 and 206 of this act; and

21 (e) Provide input, review, and comment on rules proposed by the
22 department under this chapter.

23 (8) Advisory committee members that are representatives of tribes
24 or tribal and indigenous services organizations or community-based
25 and environmental nonprofit organizations must, if requested, be
26 compensated and reimbursed in accordance with RCW 43.03.050,
27 43.03.060, and 43.03.220.

28 NEW SECTION. **Sec. 208.** TRUTH IN LABELING TASK FORCE. (1) The
29 truth in labeling task force is established as a subgroup of the
30 advisory committee established in section 207 of this act.

31 (2) The truth in labeling task force shall consist of interested
32 members of the advisory committee.

33 (3) The truth in labeling task force shall study and evaluate
34 misleading or confusing claims regarding the recyclability of
35 products made on a product or product packaging. The task force shall
36 make recommendations to the legislature for the development of
37 recyclability labeling standards and requirements for products and
38 packaging sold in Washington. The study must include consideration of
39 issues affecting accessibility for diverse audiences.

1 (4) The department must transmit a final report and
2 recommendations from the truth in labeling task force, in the form of
3 draft legislation, to the appropriate committees of the legislature
4 by June 1, 2026.

5 (5) The department must provide staff support to the truth in
6 labeling task force.

7 NEW SECTION. **Sec. 209.** PACKAGING RECYCLING OVERSIGHT ACCOUNT.
8 The packaging recycling oversight account is created in the custody
9 of the state treasurer. All receipts received by the department under
10 RCW 70A.245.020 must be deposited in the account. Expenditures from
11 the account may be used by the department only for implementing,
12 administering, and enforcing the requirements of this chapter. Only
13 the director of the department or the director's designee may
14 authorize expenditures from the account. The account is subject to
15 the allotment procedures under chapter 43.88 RCW, but an
16 appropriation is not required for expenditures.

17 **PART 3**
18 **POSTCONSUMER RECYCLED CONTENT**
19 **REQUIREMENTS**

20 **Sec. 301.** RCW 70A.245.020 and 2021 c 313 s 3 are each amended to
21 read as follows:

22 (1)(a) Beginning January 1, 2023, producers that offer for sale,
23 sell, or distribute in or into Washington:

24 (i) Beverages other than wine in 187 milliliter plastic beverage
25 containers and dairy milk in plastic beverage containers must meet
26 minimum postconsumer recycled content requirements established under
27 subsection (4) of this section; and

28 (ii) Plastic trash bags must meet minimum postconsumer recycled
29 content requirements established under subsection (6) of this
30 section.

31 (b) Beginning January 1, 2025, producers that offer for sale,
32 sell, or distribute in or into Washington household cleaning and
33 personal care products in plastic household cleaning and personal
34 care product containers must meet minimum postconsumer recycled
35 content as required under subsection (5) of this section.

36 (c) Beginning January 1, 2028, producers that offer for sale,
37 sell, or distribute in or into Washington wine in 187 milliliter

1 plastic beverage containers or dairy milk in plastic beverage
2 containers must meet minimum postconsumer recycled content as
3 required under subsection (4) of this section.

4 (2)(a) On or before April 1, 2022, and annually thereafter, a
5 producer that offers for sale, sells, or distributes in or into
6 Washington covered products must register with the department
7 individually or through a third-party representative registering on
8 behalf of a group of producers.

9 (b) The registration information submitted to the department
10 under this section must include a list of the producers of covered
11 products and the brand names of the covered products represented in
12 the registration submittal. Beginning April 1, 2024, for plastic
13 trash bags and plastic beverage containers other than wine in 187
14 milliliter plastic beverage containers and dairy milk in plastic
15 beverage containers, April 1, 2026, for plastic household and
16 personal care product containers, and April 1, 2029, for wine in 187
17 milliliter plastic beverage containers and dairy milk, a producer may
18 submit registration information at the same time as the information
19 submitted through the annual reporting required under RCW
20 70A.245.030.

21 (3)(a) By January 31, 2022, and every January 31st thereafter,
22 the department must:

23 (i) Prepare an annual workload analysis for public comment that
24 identifies the annual costs it expects to incur to implement,
25 administer, and enforce this section and RCW 70A.245.030 through
26 70A.245.060 and 70A.245.090 (1), (2), and (4), including rule making,
27 in the next fiscal year for each category of covered products;

28 (ii) Determine a total annual fee payment by producers or their
29 third-party representatives for each category of covered products
30 that is adequate to cover, but not exceed, the workload identified in
31 (a)(i) of this subsection;

32 (iii) Until rules are adopted under (a)(iv) of this subsection,
33 issue a general order to all entities falling within the definition
34 of producer. The department must equitably determine fee amounts for
35 an individual producer or third-party representatives within each
36 category of covered product;

37 (iv) By 2024, adopt rules to equitably determine annual fee
38 payments by producers or their third-party representatives within
39 each category of covered product. Once such rules are adopted, the

1 general order issued under (a)(iii) of this subsection is no longer
2 effective; and

3 (v) Send notice to producers or their third-party representatives
4 of fee amounts due consistent with either the general order issued
5 under (a)(iii) of this subsection or rules adopted under (a)(iv) of
6 this subsection.

7 (b) The department must:

8 (i) Apply any remaining annual payment funds from the current
9 year to the annual payment for the coming year, if the collected
10 annual payment exceeds the department's costs for a given year; and

11 (ii) Increase annual payments for the coming year to cover the
12 department's costs, if the collected annual payment was less than the
13 department's costs for a given year.

14 (c) By April 1, 2022, and every April 1st thereafter, producers
15 or their third-party representative must submit a fee payment as
16 determined by the department under (a) of this subsection.

17 (4) A producer of a beverage in a plastic beverage container must
18 meet the following annual minimum postconsumer recycled content
19 percentage on average for the total quantity of plastic beverage
20 containers, by weight, that are sold, offered for sale, or
21 distributed in or into Washington by the producer effective:

22 (a) For beverages except wine in 187 milliliter plastic beverage
23 containers and dairy milk:

24 (i) January 1, 2023, through December 31, 2025: No less than 15
25 percent postconsumer recycled content plastic by weight;

26 (ii) January 1, 2026, through December 31, 2030: No less than 25
27 percent postconsumer recycled content plastic by weight; and

28 (iii) On and after January 1, 2031: No less than 50 percent
29 postconsumer recycled content plastic by weight.

30 (b) For wine in 187 milliliter plastic beverage containers and
31 dairy milk:

32 (i) January 1, 2028, through December 31, 2030: No less than 15
33 percent postconsumer recycled content plastic by weight;

34 (ii) January 1, 2031, through December 31, 2035: No less than 25
35 percent postconsumer recycled content plastic by weight; and

36 (iii) On and after January 1, 2036: No less than 50 percent
37 postconsumer recycled content plastic by weight.

38 (5) A producer of household cleaning and personal care products
39 in plastic containers must meet the following annual minimum
40 postconsumer recycled content percentage on average for the total

1 quantity of plastic containers, by weight, that are sold, offered for
2 sale, or distributed in or into Washington by the producer effective:

3 (a) January 1, 2025, through December 31, 2027: No less than 15
4 percent postconsumer recycled content plastic by weight;

5 (b) January 1, 2028, through December 31, 2030: No less than 25
6 percent postconsumer recycled content plastic by weight; and

7 (c) On and after January 1, 2031: No less than 50 percent
8 postconsumer recycled content plastic by weight.

9 (6) A producer of plastic trash bags must meet the following
10 annual minimum postconsumer recycled content percentage on average
11 for the total quantity of plastic trash bags, by weight, that are
12 sold, offered for sale, or distributed in or into Washington by the
13 producer effective:

14 (a) January 1, 2023, through December 31, 2024: No less than 10
15 percent postconsumer recycled content plastic by weight;

16 (b) January 1, 2025, through December 31, 2026: No less than 15
17 percent postconsumer recycled content plastic by weight; and

18 (c) On and after January 1, 2027: No less than 20 percent
19 postconsumer recycled content plastic by weight.

20 (7)(a) Beginning January 1, 2024, or when rule making is
21 complete, whichever is sooner, the department may, on an annual basis
22 on January 1st, review and determine for the following year whether
23 to adjust the minimum postconsumer recycled content percentage
24 required for a type of container or product or category of covered
25 products pursuant to subsection (4), (5), or (6) of this section. The
26 department's review may be initiated by the department or at the
27 petition of a producer or a covered product manufacturing industry
28 not more than once annually. When submitting a petition, producers or
29 a producer manufacturing industry must provide necessary information
30 that will allow the department to make a determination under (b) of
31 this subsection.

32 (b) In making a determination pursuant to this subsection, the
33 department must consider, at a minimum, all of the following factors:

34 (i) Changes in market conditions, including supply and demand for
35 postconsumer recycled content plastics, collection rates, and bale
36 availability both domestically and globally;

37 (ii) Recycling rates;

38 (iii) The availability of recycled plastic suitable to meet the
39 minimum postconsumer recycled content requirements pursuant to
40 subsection (4), (5), or (6) of this section, including the

1 availability of high quality recycled plastic, and food-grade
2 recycled plastic from recycling programs;

3 (iv) The capacity of recycling or processing infrastructure;

4 (v) The technical feasibility of achieving the minimum
5 postconsumer recycled content requirements in covered products that
6 are regulated under 21 C.F.R., chapter I, subchapter G, 7 U.S.C. Sec.
7 136, 15 U.S.C. Sec. 1471-1477, 49 C.F.R. Sec. 178.33b, 49 C.F.R. Sec.
8 173, 40 C.F.R. Sec. 152.10, 15 U.S.C. Sec. 1261-1278, 49 U.S.C. 5101
9 et seq., 49 C.F.R. Sec. 178.509, 49 C.F.R. Sec. 179.522, 49 C.F.R.
10 Sec. 178.600-609, and other federal laws; and

11 (vi) The progress made by producers in achieving the goals of
12 this section.

13 (c) Under (a) of this subsection:

14 (i) The department may not adjust the minimum postconsumer
15 recycled content requirements above the minimum postconsumer recycled
16 content percentages for the year under review required pursuant to
17 subsection (4), (5), or (6) of this section.

18 (ii) For plastic household cleaning and personal care product
19 containers, the department may not adjust the minimum postconsumer
20 recycled content requirements above the minimum postconsumer recycled
21 content percentages for the year under review required pursuant to
22 subsection (5) of this section or below a minimum of 10 percent.

23 (iii) For plastic trash bags, the department may not adjust the
24 minimum postconsumer recycled content requirements above the minimum
25 postconsumer recycled content percentages for the year under review
26 required pursuant to subsection (6) of this section or below the
27 minimum percentage required in subsection (6)(a) of this section.

28 (d) A producer or the manufacturing industry for a covered
29 product may appeal a decision by the department to adjust
30 postconsumer recycled content percentages under (a) of this
31 subsection or to temporarily exclude covered products from minimum
32 postconsumer recycled content requirements under subsection (8) of
33 this section to the pollution control hearings board within 30 days
34 of the department's determination.

35 (8) The department must temporarily exclude from minimum
36 postconsumer recycled content requirements for the upcoming year any
37 types of covered products in plastic containers for which a producer
38 annually demonstrates to the department by December 31st of a given
39 year that the achievement of postconsumer recycled content
40 requirements in the container material is not technically feasible in

1 order to comply with health or safety requirements of federal law,
2 including the federal laws specified in subsection (7)(b)(v) of this
3 section. A producer must continue to register and report consistent
4 with the requirements of this chapter for covered products
5 temporarily excluded from minimum postconsumer recycled content
6 requirements under this subsection.

7 (9) A producer that does not achieve the postconsumer recycled
8 content requirements established under this section is subject to
9 penalties established in RCW 70A.245.040.

10 (10)(a) A city, town, county, or municipal corporation may not
11 implement local recycled content requirements for a covered product
12 that is subject to minimum postconsumer recycled content requirements
13 established in this section.

14 (b) A city, town, county, or municipal corporation may establish
15 local purchasing requirements that include recycled content standards
16 that exceed the minimum recycled content requirements established by
17 this chapter for plastic household cleaning and personal care product
18 containers or plastic trash bags purchased by a city, town, or
19 municipal corporation, or its contractor.

20 (11) The department may enter into contracts for the services
21 required to implement this chapter and related duties of the
22 department.

23 (12) In-state distributors, wholesalers, and retailers in
24 possession of covered products manufactured before the date that
25 postconsumer recycled content requirements become effective may
26 exhaust their existing stock through sales to the public.

27 (13) A producer of polypropylene tubs must meet the following
28 annual minimum postconsumer recycled content percentage on average
29 for the total quantity of polypropylene tubs, by weight, that are
30 sold, offered for sale, or distributed in or into Washington by the
31 producer effective as of:

32 (a)(i) Products manufactured between January 1, 2031, through
33 December 31, 2035: No less than 10 percent postconsumer recycled
34 content plastic by weight; and

35 (ii) Products manufactured on and after January 1, 2036: No less
36 than 30 percent postconsumer recycled content plastic by weight.

37 (b) For polypropylene tubs in direct contact with food or edible
38 products:

1 (i) Products manufactured between January 1, 2035, through
2 December 31, 2038: No less than 10 percent postconsumer recycled
3 content plastic by weight; and

4 (ii) Products manufactured on and after January 1, 2040: No less
5 than 30 percent postconsumer recycled content plastic by weight.

6 (14) A producer of single-use plastic cups made of polyethylene
7 terephthalate, polypropylene, or polystyrene must meet the following
8 annual minimum postconsumer recycled content percentage on average
9 for the total quantity of single-use plastic cups, by weight, that
10 are sold, offered for sale, or distributed in or into Washington by
11 the producer effective:

12 (a) For polypropylene single-use plastic cups:

13 (i) Products manufactured between January 1, 2032, through
14 December 31, 2032: No less than 15 percent postconsumer recycled
15 content plastic by weight; and

16 (ii) Products manufactured on and after January 1, 2034: No less
17 than 25 percent postconsumer recycled content plastic by weight.

18 (b) For polyethylene terephthalate and polystyrene single-use
19 plastic cups:

20 (i) Products manufactured between January 1, 2034, through
21 December 31, 2035: No less than 20 percent postconsumer recycled
22 content plastic by weight; and

23 (ii) Products manufactured on and after January 1, 2036: No less
24 than 30 percent postconsumer recycled content plastic by weight.

25 (15) A producer of a polyethylene terephthalate thermoform
26 plastic container must meet the following annual minimum postconsumer
27 recycled content percentage on average for the total quantity of
28 polyethylene terephthalate thermoform plastic containers, by weight,
29 that are sold, offered for sale, or distributed in or into Washington
30 by the producer effective:

31 (a) For packaging for consumable goods:

32 (i) Products manufactured between January 1, 2031, through
33 December 31, 2035: No less than 10 percent postconsumer recycled
34 content plastic by weight; and

35 (ii) Products manufactured on and after January 1, 2036: No less
36 than 30 percent postconsumer recycled content plastic by weight.

37 (b) For packaging for consumable goods in direct contact with
38 food or edible products:

1 (i) Products manufactured between January 1, 2035, through
2 December 31, 2039: No less than 10 percent postconsumer recycled
3 content plastic by weight; and

4 (ii) Products manufactured on and after January 1, 2040: No less
5 than 30 percent postconsumer recycled content plastic by weight.

6 (c)(i) Except as provided in (c)(ii) of this subsection, for
7 packaging used for durable goods: On and after January 1, 2034, no
8 less than 30 percent postconsumer recycled content plastic by weight.

9 (ii) Packaging designed to accompany a durable good where that
10 durable good model is designed prior to the effective date of the
11 requirement in (c)(i) of this subsection is exempt.

12 (16) The department may extend a date identified in subsection
13 (13), (14), or (15) of this section by up to five years for all
14 producers if the department determines there is inadequate
15 availability of recycled material or a substantial disruption in the
16 supply of the recycled material.

17 **Sec. 302.** RCW 70A.245.030 and 2021 c 313 s 4 are each amended to
18 read as follows:

19 (1)(a) Except as provided in (b) (~~and (e)~~) through (d) of this
20 subsection, beginning April 1, 2024, each producer of covered
21 products, individually or through a third party representing a group
22 of producers, must provide an annual report to the department that
23 includes the amount in pounds of virgin plastic and the amount in
24 pounds of postconsumer recycled content by resin type used for each
25 category of covered products that are sold, offered for sale, or
26 distributed in or into Washington state, including the total
27 postconsumer recycled content resins as a percentage of total weight.
28 The report must be submitted in a format and manner prescribed by the
29 department. A manufacturer may submit national data allocated on a
30 per capita basis for Washington to approximate the information
31 required in this subsection if the producer or third-party
32 representative demonstrates to the department that state level data
33 are not available or feasible to generate.

34 (b) The requirements of (a) of this subsection apply to household
35 cleaning and personal care products in plastic containers beginning
36 April 1, 2026.

37 (c) The requirements of (a) of this subsection apply to wine in
38 187 milliliter plastic beverage containers and dairy milk in plastic
39 beverage containers beginning April 1, 2029.

1 (d) The requirements of (a) of this subsection apply to:

2 (i) Polypropylene tubs and polyethylene terephthalate thermoform
3 plastic containers for consumable goods beginning April 1, 2032;

4 (ii) Polypropylene single-use plastic cups beginning April 1,
5 2033;

6 (iii) Polyethylene terephthalate and polystyrene single-use
7 plastic cups and polyethylene terephthalate thermoform plastic
8 container packaging used for durable goods beginning January 1, 2035;
9 and

10 (iv) Polypropylene tubs in direct contact with food and
11 polyethylene terephthalate thermoform plastic container packaging for
12 consumable goods in direct contact with food or edible products
13 beginning April 1, 2036.

14 (e) The department must post the information reported under this
15 subsection on its website, except as provided in subsection (2) of
16 this section.

17 (2) A producer that submits information or records to the
18 department under this chapter may request that the information or
19 records be made available only for the confidential use of the
20 department, the director, or the appropriate division of the
21 department. The director of the department must give consideration to
22 the request and if this action is not detrimental to the public
23 interest and is otherwise in accordance with the policies and
24 purposes of chapter 43.21A RCW, the director must grant the request
25 for the information to remain confidential as authorized in
26 RCW 43.21A.160.

27 NEW SECTION. Sec. 303. A new section is added to chapter
28 70A.245 RCW to read as follows:

29 REQUEST FOR WAIVER. (1)(a) A producer may pay a \$1,000 waiver
30 fee, unless exempt from the postconsumer recycled content
31 requirements of RCW 70A.245.020 (13), (14), or (15), and apply to the
32 department for a waiver from the postconsumer recycled content
33 requirements established pursuant to RCW 70A.245.020 (13), (14), or
34 (15). De minimis producers that apply for a waiver under this
35 subsection are not subject to the fee.

36 (b) The department may grant a waiver pursuant to this section if
37 the producer demonstrates, and the department finds, in writing, that
38 any of the following are applicable:

1 (i) The producer cannot achieve the postconsumer recycled content
2 requirements and remain in compliance with applicable rules and
3 regulations adopted by the United States food and drug
4 administration, or any other state or federal law, rule, or
5 regulation;

6 (ii) It is not technically feasible for the producer to achieve
7 the postconsumer recycled content requirements; or

8 (iii) The producer cannot comply with the postconsumer recycled
9 content requirements due to inadequate availability of recycled
10 material or a substantial disruption in the supply of recycled
11 material.

12 (2) Fees paid under this section must be deposited in the
13 recycled content account created in RCW 70A.245.110.

14 NEW SECTION. **Sec. 304.** A new section is added to chapter
15 70A.245 RCW to read as follows:

16 DEPARTMENT'S DUTIES AND LIMITATIONS. (1) The department must
17 ensure that any rules adopted pursuant to this chapter consider
18 guidelines, and not conflict with regulations, issued by the United
19 States food and drug administration and the United States department
20 of agriculture and consider requirements imposed by other Washington
21 state agencies including, but not limited to, the department of
22 agriculture.

23 (2) The department may not impose any requirement including, but
24 not limited to, a postconsumer recycled content requirement, in
25 direct conflict with a federal law or regulation or the requirements
26 necessary to comply with a federal law or regulation including, but
27 not limited to:

28 (a) Laws or regulations covering tamper-evident packaging
29 pursuant to 21 C.F.R. Sec. 211.132;

30 (b) Laws or regulations covering child-resistant packaging
31 pursuant to 16 C.F.R. Sec. 1700.1 et seq.;

32 (c) Regulations, rules, or guidelines issued by the United States
33 department of agriculture or the United States food and drug
34 administration related to packaging agricultural commodities; and

35 (d) Requirements for microbial contamination, structural
36 integrity, or safety of packaging where no viable recyclable or
37 compostable packaging that can meet the requirements exists, pursuant
38 to: (i) The federal food, drug, and cosmetic act (21 U.S.C. Sec. 301
39 et seq.); (ii) 21 U.S.C. Sec. 2101 et seq.; (iii) the federal food

1 and drug administration food safety modernization act (21 U.S.C. Sec.
2 2201 et seq.); (iv) the federal poultry products inspection act (21
3 U.S.C. Sec. 451 et seq.); (v) the federal meat inspection act (21
4 U.S.C. Sec. 601 et seq.); or (vi) the federal egg products inspection
5 act (21 U.S.C. Sec. 1031 et seq.).

6 (3) The department may not impose any requirement including, but
7 not limited to, a postconsumer recycled content requirement, on
8 medical devices, drugs, or dietary supplements as defined in 21
9 U.S.C. Sec. 321 et seq.

10 **Sec. 305.** RCW 70A.245.010 and 2021 c 313 s 2 are each amended to
11 read as follows:

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

14 (1) ~~(a)~~ "Beverage" means ~~((beverages identified in (a) through (f)~~
15 ~~of this subsection,))~~ liquid products intended for human or animal
16 consumption, and in a quantity more than or equal to two fluid ounces
17 and less than or equal to one gallon:

18 ~~((a))~~ (i) Water and flavored water;

19 ~~((b))~~ (ii) Beer or other malt beverages;

20 ~~((c))~~ (iii) Wine;

21 ~~((d))~~ (iv) Distilled spirits;

22 ~~((e))~~ (v) Mineral water, soda water, and similar carbonated
23 soft drinks; ~~(and~~

24 ~~(f) Any beverage other than those specified in (a) through (e) of~~
25 ~~this subsection, except))~~ (vi) Dairy milk; and

26 (vii) Any other beverage identified by the department by rule.

27 (b) Beverage does not include infant formula as defined in 21
28 U.S.C. Sec. 321(z), medical food as defined in 21 U.S.C. Sec.
29 360ee(b)(3), or fortified oral nutritional supplements used for
30 persons who require supplemental or sole source nutrition to meet
31 nutritional needs due to special dietary needs directly related to
32 cancer, chronic kidney disease, diabetes, malnutrition, and failure
33 to thrive, as those terms are defined by the international
34 classification of diseases, 10th revision, or other medical
35 conditions as determined by the department.

36 (c) For any multilateral beverage container qualifying under this
37 chapter, postconsumer recycled content requirements only apply to the
38 weight of the plastic components of the container, not overall
39 container weight.

1 (2) "Beverage manufacturing industry" means an association that
2 represents beverage producers.

3 (3) "Condiment packaging" means packaging used to deliver single-
4 serving condiments to customers. Condiment packaging includes, but is
5 not limited to, single-serving packaging for ketchup, mustard,
6 relish, mayonnaise, hot sauce, coffee creamer, salad dressing, jelly,
7 jam, and soy sauce.

8 (4) (a) "Covered product" means an item in one of the following
9 categories subject to minimum postconsumer recycled content
10 requirements:

11 (i) Plastic trash bags;

12 (ii) Household cleaning and personal care products that use
13 plastic household cleaning and personal care product containers;
14 ((and))

15 (iii) Beverages that use plastic beverage containers;

16 (iv) Plastic tubs;

17 (v) Thermoform plastic polyethylene terephthalate containers; and

18 (vi) Single-use polypropylene, polyethylene terephthalate, or
19 polystyrene cups.

20 (b) "Covered product" does not include any type of container or
21 bag for which the state is preempted from regulating content of the
22 container material or bag material under federal law.

23 (5) "Dairy milk" means a beverage that designates milk as the
24 predominant (first) ingredient in the ingredient list on the
25 container's label.

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

27 (7) "Expanded polystyrene" means blown polystyrene and expanded
28 and extruded foams that are thermoplastic petrochemical materials
29 utilizing a styrene monomer and processed by any number of techniques
30 including, but not limited to, fusion of polymer spheres (expandable
31 bead polystyrene), injection molding, foam molding, and extrusion-
32 blow molding (extruded foam polystyrene).

33 (8) "Food service business" means a business selling or providing
34 food for consumption on or off the premises, and includes full-
35 service restaurants, fast food restaurants, cafes, delicatessens,
36 coffee shops, grocery stores, vending trucks or carts, home delivery
37 services, delivery services provided through an online application,
38 and business or institutional cafeterias.

39 (9) "Food service product" means a product intended for one-time
40 use and used for food or drink offered for sale or use. Food service

1 products include, but are not limited to, containers, plates, bowls,
2 cups, lids, beverage containers, meat trays, deli rounds, utensils,
3 sachets, straws, condiment packaging, clamshells and other hinged or
4 lidded containers, wrap, and portion cups.

5 (10) "Household cleaning and personal care product" means any of
6 the following:

7 (a) Laundry detergents, softeners, and stain removers;

8 (b) Household cleaning products;

9 (c) Liquid soap;

10 (d) Shampoo, conditioner, styling sprays and gels, and other hair
11 care products; or

12 (e) Lotion, moisturizer, facial toner, and other skin care
13 products.

14 (11) "Household cleaning and personal care product manufacturing
15 industry" means an association that represents companies that
16 manufacture household cleaning products and personal care products.

17 (12) "Licensee" means a manufacturer of a covered product or
18 entity who licenses a brand and manufactures a covered product under
19 that brand. A franchisee is not a licensee unless a franchisee meets
20 the requirements of a licensee under this subsection.

21 (13) "Oral nutritional supplement" means a manufactured liquid,
22 powder capable of being reconstituted, or solid product that contains
23 a combination of carbohydrates, proteins, fats, fiber, vitamins, and
24 minerals intended to supplement a portion of a patient's nutrition
25 intake.

26 (14) (a) "Plastic beverage container" means a bottle or other
27 rigid container that is capable of maintaining its shape when empty,
28 comprised solely of one or multiple plastic resins designed to
29 contain a beverage. "Plastic beverage container" includes a
30 container's cap or lid, beginning January 1, 2026;

31 (b) Plastic beverage container does not include:

32 ~~((a))~~ (i) Refillable beverage containers, such as containers
33 that are sufficiently durable for multiple rotations of their
34 original or similar purpose and are intended to function in a system
35 of reuse;

36 ~~((b))~~ (ii) Rigid plastic containers or plastic bottles that are
37 or are used for medical devices, medical products that are required
38 to be sterile, nonprescription and prescription drugs, or dietary
39 supplements as defined in RCW 82.08.0293;

40 ~~((c))~~ (iii) Bladders or pouches that contain wine; or

1 ~~((d))~~ (iv) Liners, caps, corks, closures, labels, and other
2 items added externally or internally but otherwise separate from the
3 structure of the bottle or container, other than a cap or lids; and

4 (c) Other products subject to minimum postconsumer recycled
5 content requirements.

6 (15)(a) "Plastic household cleaning ~~((and))~~ container or personal
7 care product container" means a bottle, jug, or other rigid container
8 ~~((with a neck or mouth narrower than the base, and))~~:

9 (i) ~~((A))~~ With a minimum capacity of eight fluid ounces or its
10 equivalent volume;

11 (ii) ~~((A))~~ With a maximum capacity of five fluid gallons or its
12 equivalent volume;

13 (iii) That is capable of maintaining its shape when empty;

14 (iv) Comprised solely of one or multiple plastic resins; and

15 (v) Containing a household cleaning or personal care product.

16 (b) "Plastic household cleaning ~~((and))~~ product container or
17 personal care product container" does not include:

18 (i) Refillable household cleaning ~~((and))~~ product containers or
19 personal care product containers, such as containers that are
20 sufficiently durable for multiple rotations of their original or
21 similar purpose and are intended to function in a system of reuse;
22 ~~((and))~~

23 (ii) Rigid plastic containers or plastic bottles that are medical
24 devices, medical products that are required to be sterile, and
25 nonprescription and prescription drugs, dietary supplements as
26 defined in RCW 82.08.0293, and packaging used for those products;

27 (iii) Other covered products subject to minimum postconsumer
28 recycled content requirements; or

29 (iv) Liners, corks, closures, labels, and other items added
30 externally or internally but otherwise separate from the structure of
31 the bottle or container, other than a cap or lid.

32 (16) "Plastic trash bag" means a bag that is made of
33 noncompostable plastic, is at least 0.70 mils thick, and is designed
34 and manufactured for use as a container to hold, store, or transport
35 materials to be discarded or recycled, and includes, but is not
36 limited to, a garbage bag, recycling bag, lawn or leaf bag, can liner
37 bag, kitchen bag, or compactor bag. "Plastic trash bag" does not
38 include any compostable bags meeting the requirements of chapter
39 70A.455 RCW. "Plastic trash bag" does not include any reusable

1 plastic carryout bag meeting the requirements of RCW
2 70A.530.020(6)(b).

3 (17) "Plastic trash bag manufacturing industry" means an
4 association that represents companies that manufacture plastic trash
5 bags.

6 (18) "Postconsumer recycled content" means the content of a
7 covered product made of recycled materials derived specifically from
8 recycled material generated by households or by commercial,
9 industrial, and institutional facilities in their role as end users
10 of a product that can no longer be used for its intended purpose.
11 "Postconsumer recycled content" includes returns of material from the
12 distribution chain.

13 (19)(a) "Producer" means the following person responsible for
14 compliance with minimum postconsumer recycled content requirements
15 under this chapter for a covered product sold, offered for sale, or
16 distributed in or into this state:

17 (i) If the covered product is sold (~~under~~) with the
18 manufacturer's own brand or lacks identification of a brand, the
19 producer is the person who manufactures the covered product;

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

27 (iii) If there is no person described in (a)(i) and (ii) of this
28 subsection over whom the state can constitutionally exercise
29 jurisdiction, the producer is the person who imports or distributes
30 the covered product in or into the state.

31 (b) A person is the "producer" of a covered product sold, offered
32 for sale, or distributed in or into this state, as defined in (a)(i)
33 through (iii) of this subsection, except where another person has
34 mutually signed an agreement with a producer as defined in (a)(i)
35 through (iii) of this subsection that contractually assigns
36 responsibility to the person as the producer, and the person has
37 joined a registered producer responsibility organization as the
38 responsible producer for that covered product under this chapter.

39 (c) "Producer" does not include:

1 (i) Government agencies, municipalities, or other political
2 subdivisions of the state;

3 (ii) Registered 501(c)(3) charitable organizations and 501(c)(4)
4 social welfare organizations; (~~(iii)~~)

5 (iii) De minimis producers that annually sell, offer for sale,
6 distribute, or import in or into the country for sale in
7 Washington(~~(iv)~~

8 ~~(A) Less~~) less than one ton of a single category of plastic
9 beverage containers, plastic household cleaning and personal care
10 containers, or plastic trash bags each year; or

11 ~~((B) A single category of a covered product that in aggregate
12 generates less than \$1,000,000 each year in revenue))~~ (iv) De minimis
13 producers that have global gross revenue of less than \$5,000,000 for
14 the most recent fiscal year of the organization. The department shall
15 calculate an adjusted rate to maintain the small business exemption
16 by the rate of inflation. The adjusted rate must be calculated to the
17 nearest cent using the consumer price index. Each adjusted rate
18 calculated under this subsection takes effect on the following
19 January 1st.

20 (20)(a) "Retail establishment" means any person, corporation,
21 partnership, business, facility, vendor, organization, or individual
22 that sells or provides merchandise, goods, or materials directly to a
23 customer.

24 (b) "Retail establishment" includes, but is not limited to, food
25 service businesses, grocery stores, department stores, hardware
26 stores, home delivery services, pharmacies, liquor stores,
27 restaurants, catering trucks, convenience stores, or other retail
28 stores or vendors, including temporary stores or vendors at farmers
29 markets, street fairs, and festivals.

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

34 (b) "Utensil" does not include plates, bowls, cups, and other
35 products used to contain food or beverages.

36 (22) "Brand" means a name, symbol, word, logo, or mark that
37 identifies a product and attributes the product and its components,
38 including packaging, to the brand owner of the product as the
39 producer.

1 (23) "Durable good" means a product that provides utility over an
2 extended period of time.

3 (24) "Entity" means an individual and any form of business
4 enterprise. For purposes of calculating the de minimis producer
5 thresholds under this chapter, a producer entity includes all legal
6 entities that are affiliated by common ownership of 50 percent or
7 greater, including parents, subsidiaries, and commonly owned
8 affiliates.

9 (25) (a) "Polyethylene terephthalate thermoform plastic container"
10 means a clear or colored plastic container, such as a clamshell, lid,
11 tray, egg carton, trifold, or similar rigid, nonbottle packaging,
12 formed from sheets of extruded polyethylene terephthalate resin and
13 used to package consumable or durable goods that reach consumers,
14 including:

15 (i) Branded and prepackaged containers that have been filled with
16 products and sealed prior to receipt by the retail establishment,
17 such as fresh produce, baked goods, nuts, toys, electronics, and
18 tools;

19 (ii) Containers that may be filled at the point-of-sale at a
20 retail establishment;

21 (iii) Unfilled containers that are sold directly;

22 (iv) Hinged plastic containers, commonly known as "clamshells" or
23 "blister packaging";

24 (v) Two-piece unhinged containers;

25 (vi) One-piece containers without lids, such as trays; and

26 (vii) Trifold or tent containers with one or more hinges and a
27 flat bottom.

28 (b) "Polyethylene terephthalate thermoform plastic container"
29 does not include:

30 (i) Household cleaning products or personal care products;

31 (ii) Polypropylene plastic tubs;

32 (iii) Refillable containers, such as containers that are
33 sufficiently durable for multiple rotations of their original or
34 similar purpose and are intended to function in a system of reuse;

35 (iv) A lid or seal of a different material type from plastic;

36 (v) A refillable polyethylene terephthalate thermoform plastic
37 container that ordinarily would be returned to the manufacturer to be
38 refilled and resold;

1 (vi) Plastic containers that are or are used for medical devices,
2 medical products that are required to be sterile, prescription drugs,
3 or dietary supplements as defined in RCW 82.08.0293;

4 (vii) Other covered products subject to minimum postconsumer
5 recycled content requirements under this chapter; and

6 (viii) Polyethylene terephthalate thermoform plastic containers
7 accompanying a durable good when the durable good model, and the
8 associated packaging, was designed prior to January 1, 2028.

9 (26) (a) "Polypropylene plastic tub" means a wide mouth, rigid
10 container used to package consumable or durable goods that reach
11 consumers, with a maximum capacity of 50 ounces, that is:

12 (i) Capable of maintaining its shape when empty;

13 (ii) Comprised solely of polypropylene; and

14 (iii) Sealed with tamper-proof film or a detachable lid capable
15 of multiple openings and closures.

16 (b) "Polypropylene plastic tub" does not include:

17 (i) Household cleaning and personal care products;

18 (ii) Plastic containers that are or are used for medical devices,
19 medical products that are required to be sterile, nonprescription and
20 prescription drugs, or dietary supplements as defined in RCW
21 82.08.0293;

22 (iii) Polyethylene terephthalate thermoform plastic containers;

23 (iv) Single-use plastic cups made of polypropylene, polyethylene
24 terephthalate, or polystyrene; and

25 (v) Other covered products subject to minimum postconsumer
26 recycled content requirements.

27 (27) (a) "Single-use plastic cup" means all beverage cups that are
28 nonsealed or sealed at point-of-sale.

29 (b) Single-use plastic cups do not include: (i) Commercially or
30 home compostable cups; (ii) expanded polystyrene cups; (iii)
31 composite plastic-lined fiber cups; or (iv) other covered products
32 subject to minimum postconsumer recycled content requirements.

33 **PART 4**

34 **MISCELLANEOUS**

35 **Sec. 401.** RCW 81.77.195 and 2010 c 154 s 4 are each amended to
36 read as follows:

37 (1) Upon (~~request of~~) its own motion, or upon request by a
38 solid waste collection company or a county, the commission may

1 approve rates, charges, or services at a discount for low-income
2 senior customers and low-income customers (~~(, as adopted by the county~~
3 ~~in its comprehensive solid waste management plan)~~). Expenses and lost
4 revenues as a result of these discounts must be included in the
5 company's cost of service and recovered in rates to other customers.

6 (2) In order to remove barriers and to expedite assistance, low-
7 income discounts approved under this section must be provided in
8 coordination with community-based organizations in the solid waste
9 collection company's service territory including, but not limited to,
10 city and county government, grantees of the department of commerce,
11 community action agencies, and community-based nonprofit
12 organizations. Nothing in this section may be construed as limiting
13 the commission's authority to approve or modify tariffs authorizing
14 low-income discounts.

15 (3) Eligibility for a low-income discount rate established in
16 this section must be established upon verification of a low-income
17 customer's receipt of any means-tested public benefit by an
18 organization identified in subsection (2) of this section, for which
19 eligibility does not exceed the low-income definition set by the
20 commission pursuant to RCW 19.405.020. The public benefits may
21 include, but are not limited to, assistance that provides cash,
22 housing, food, or medical care including, but not limited to,
23 temporary assistance for needy families, supplemental security
24 income, emergency assistance to elders, disabled, and children,
25 supplemental nutrition assistance program benefits, public housing,
26 federally subsidized or state-subsidized housing, the low-income home
27 energy assistance program, veterans' benefits, and similar benefits.

28 (4) Each solid waste collection company that offers a low-income
29 discount shall conduct outreach efforts to make the low-income
30 discounts available to eligible customers. Such outreach:

31 (a) Must be made at least biannually to inform customers of
32 available rebates, discounts, credits, and other cost-saving
33 mechanisms that can help them lower their monthly bills for solid
34 waste collection service; and

35 (b) May be in the form of any customary and usual methods of
36 communication or distribution including, without limitation, widely
37 broadcast communications with customers, direct mailing, telephone
38 calls, electronic communications, social media postings, in-person
39 contacts, websites of the solid waste collection company, press

1 releases, and print and electronic media, that are designed to
2 increase access to and participation in bill assistance programs.

3 (5) Outreach may include establishing an automated program of
4 matching customer accounts with lists of recipients of the means-
5 tested public benefit programs and, based on the results of the
6 matching program, to presumptively offer a low-income discount rate
7 to eligible customers so identified. However, the solid waste
8 collection company must within 60 days of the presumptive enrollment
9 inform such a low-income customer of the presumptive enrollment and
10 all rights and obligations of a customer under the program, including
11 the right to withdraw from the program without penalty.

12 (6) A residential customer eligible for a low-income discount
13 rate must receive the service on demand.

14 (7) A residential customer may not be charged for initiating or
15 terminating low-income discount rates.

16 (8) A solid waste collection company is not required to make
17 eligibility determinations for low-income rates.

18 (9) The commission may adopt rules or guidance to administer and
19 determine eligibility for discounts for low-income customers.

20 (10) For the purposes of this subsection, "low-income" has the
21 same meaning as defined in RCW 19.405.020.

22 **Sec. 402.** RCW 43.21B.110 and 2024 c 347 s 5, 2024 c 340 s 4, and
23 2024 c 339 s 16 are each reenacted and amended to read as follows:

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

31 (a) Civil penalties imposed pursuant to chapter 70A.230 RCW and
32 RCW 18.104.155, 70A.15.3160, 70A.300.090, 70A.20.050, 70A.230.020,
33 70A.205.280, 70A.355.070, 70A.430.070, 70A.500.260, 70A.505.100,
34 70A.505.110, 70A.530.040, 70A.350.070, 70A.515.060, 70A.245.040,
35 70A.245.050, 70A.245.070, 70A.245.080, 70A.245.130, 70A.245.140,
36 70A.65.200, 70A.455.090, 70A.550.030, 70A.555.110, 70A.560.020,
37 70A.565.030, section 207 of this act, 76.09.170, 77.55.440,
38 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310,
39 90.56.330, and 90.64.102.

1 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
2 18.104.130, 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.15.4530,
3 70A.15.6010, 70A.205.280, 70A.214.140, 70A.300.120, 70A.350.070,
4 70A.245.020, 70A.65.200, 70A.505.100, 70A.555.110, 70A.560.020,
5 70A.565.030, 86.16.020, 88.46.070, 90.03.665, 90.14.130, 90.46.250,
6 90.48.120, 90.48.240, 90.56.330, and 90.64.040.

7 (c) Except as provided in RCW 90.03.210(2), the issuance,
8 modification, or termination of any permit, certificate, or license
9 by the department or any air authority in the exercise of its
10 jurisdiction, including the issuance or termination of a waste
11 disposal permit, the denial of an application for a waste disposal
12 permit, the modification of the conditions or the terms of a waste
13 disposal permit, a decision to approve or deny a solid waste
14 management plan under RCW 70A.205.055, approval or denial of an
15 application for a beneficial use determination under RCW 70A.205.260,
16 an application for a change under RCW 90.03.383, or a permit to
17 distribute reclaimed water under RCW 90.46.220.

18 (d) Decisions of local health departments regarding the granting
19 or denial of solid waste permits pursuant to chapter 70A.205 RCW,
20 including appeals by the department as provided in RCW 70A.205.130.

21 (e) Decisions of local health departments regarding the issuance
22 and enforcement of permits to use or dispose of biosolids under RCW
23 70A.226.090.

24 (f) Decisions of the department regarding waste-derived
25 fertilizer or micronutrient fertilizer under RCW 15.54.820.

26 (g) Decisions of local conservation districts related to the
27 denial of approval or denial of certification of a dairy nutrient
28 management plan; conditions contained in a plan; application of any
29 dairy nutrient management practices, standards, methods, and
30 technologies to a particular dairy farm; and failure to adhere to the
31 plan review and approval timelines in RCW 90.64.026 as provided in
32 RCW 90.64.028.

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

36 (i) Decisions of the department of natural resources, the
37 department of fish and wildlife, and the department that are
38 reviewable under chapter 76.09 RCW, and the department of natural
39 resources' appeals of county, city, or town objections under RCW
40 76.09.050(7).

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

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

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

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

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

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

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

22 (a) Hearings required by law to be conducted by the shorelines
23 hearings board pursuant to chapter 90.58 RCW, except where appeals to
24 the pollution control hearings board and appeals to the shorelines
25 hearings board have been consolidated pursuant to RCW 43.21B.340.

26 (b) Hearings conducted by the department pursuant to RCW
27 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,
28 70A.15.3110, and 90.44.180.

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

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

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

36 NEW SECTION. **Sec. 403.** Sections 201 through 209 of this act
37 constitute a new chapter in Title 70A RCW.

1 NEW SECTION. **Sec. 404.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

--- **END** ---