
SUBSTITUTE SENATE BILL 6341

State of Washington

62nd Legislature

2012 Regular Session

By Senate Environment (originally sponsored by Senators Kohl-Welles, Nelson, Chase, Frockt, Ranker, McAuliffe, Kline, and Keiser)

READ FIRST TIME 02/03/12.

1 AN ACT Relating to creating jobs by increasing the recycling of
2 discarded carpet; amending RCW 42.56.270; reenacting and amending RCW
3 43.21B.110 and 43.21B.110; adding a new chapter to Title 70 RCW;
4 prescribing penalties; providing an effective date; and providing an
5 expiration date.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that:

8 (1) In 2009, discarded carpet and padding equaled 3.6 percent of
9 Washington's disposed waste by weight. The estimated recycling rate
10 for carpet and padding in Washington was less than 2.3 percent in 2009.

11 (2) The recycling industry accounted for about four thousand five
12 hundred jobs in Washington in 2008, and despite the recession, new and
13 expanded recycling operations have opened.

14 (3) The annual economic value of recyclables collected in
15 Washington was estimated at three hundred twenty million dollars in
16 2008.

17 (4) Washington manufacturers gain access to recycled feedstock
18 materials, such as plastics, for their products.

1 (5) Certainty about availability of recycled feedstock materials is
2 significantly increased by product stewardship requirements.

3 (6) The national, voluntary, and industry-led approach to carpet
4 stewardship, the 2002 memorandum of understanding for carpet
5 stewardship, has not met its agreed-upon goal of forty percent carpet
6 recovery and has only achieved a four to five percent recovery rate
7 nationwide.

8 (7) Numerous products can be manufactured from recycled carpet,
9 including carpet backing and backing components, carpet fiber, carpet
10 underlayment, plastics and engineered materials, and erosion control
11 products.

12 (8) The recycling of carpet into useful products is a developing
13 enterprise that has a current geographic focus in the Puget
14 Sound/Interstate 5 corridor. Both locations that receive used carpet
15 and businesses that create new products from this used carpet are
16 concentrated in this geographic area. Significant private sector
17 investment has been made in new technology to recycle types of carpet
18 that have been challenging to recycle in the past. These investments
19 are partially predicated upon the continuing availability of used
20 carpet in quantities sufficient to justify the initial capital outlays.
21 An active carpet recycling infrastructure currently exists in the Puget
22 Sound/Interstate 5 corridor to an extent not yet seen in other parts of
23 the state.

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

26 (1) "Brand" means a name, symbol, word, or mark that identifies the
27 carpet, rather than its components, and attributes the carpet to the
28 owner or licensee of the brand as the manufacturer.

29 (2) "Carpet" means a manufactured article that is used in
30 commercial or residential buildings affixed or placed on the floor or
31 building walking surface as a decorative or functional building
32 interior or exterior feature and that is primarily constructed of a top
33 visible surface of natural or synthetic face fibers or yarns or tufts
34 attached to a backing system derived from synthetic or natural
35 materials. "Carpet" includes, but is not limited to, a commercial or
36 a residential broadloom carpet or modular carpet tiles. "Carpet"

1 includes a pad or underlayment used in conjunction with a carpet.
2 "Carpet" does not include handmade rugs, area rugs, or mats.

3 (3) "Carpet stewardship organization" or "organization" means
4 either of the following:

5 (a) An organization appointed by one or more producers to act as an
6 agent on behalf of the producer to design, submit, and administer a
7 product stewardship program under this chapter; or

8 (b) A carpet producer that complies with this chapter as an
9 individual producer.

10 (4) "Consumer" means a purchaser, owner, or lessee of carpet,
11 including a person, business, corporation, limited partnership,
12 nonprofit organization, or governmental entity. "Consumer" does not
13 include a retailer or wholesaler.

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

15 (6) "Discarded carpet" means carpet that is no longer used for its
16 manufactured purpose. However, the term does not include carpet scrap
17 generated during carpet production.

18 (7) "Market share" means the percentage of carpet by weight
19 identified for an individual producer that is sold in or into the state
20 during the reporting period as compared to all carpet identified for
21 all producers by weight sold in or into the state during the same
22 reporting period.

23 (8) "Producer" means the person who:

24 (a) Has legal ownership of the brand, brand name, or cobrand of the
25 carpet sold in or into the state. "Producer" does not include a
26 retailer who puts its store label on a carpet. If the carpet has a
27 retail brand label, the manufacturer is considered the producer;

28 (b) Imports carpet branded or manufactured by a producer that meets
29 the definition under (a) of this subsection and has no physical
30 presence in the United States; or

31 (c) Sells carpet, at retail or wholesale, and elects to fulfill the
32 responsibilities of the producer for that carpet.

33 (9) "Product stewardship program" or "program" means the methods,
34 systems, and services financed and provided by producers of carpet sold
35 in or into the state including collecting, transporting, processing,
36 and recycling of discarded carpet.

37 (10) "Product stewardship program plan" or "plan" means a detailed

1 plan describing the manner in which a product stewardship program will
2 be implemented.

3 (11) "Recycling" means transforming or remanufacturing waste
4 materials into a finished product for use other than combustion,
5 landfill disposal, or incineration.

6 (12) "Reporting period" means the period commencing January 1st and
7 ending December 31st in the same calendar year.

8 (13) "Retailer" means every person who sells or offers for sale,
9 new carpet in the state.

10 (14) "Reuse" means donating or selling collected carpet back into
11 the market for its original intended use in which the carpet retains
12 its original purpose and performance characteristics.

13 (15) "Sell" or "sales" means a transfer of title of a carpet for
14 consideration, including a remote sale conducted through a sales
15 outlet, catalog, internet web site, or similar electronic means. For
16 purposes of this chapter, "sell" or "sales" includes a lease through
17 which a carpet is provided to a consumer by a producer, wholesaler, or
18 retailer.

19 (16) "Source separated" means carpet that has been separated or
20 segregated from all other wastes, including but not limited to all
21 municipal solid waste, at the place where the carpet is discarded.

22 (17) "Wholesaler" means every person who purchases, sells, or
23 distributes new carpet in the state in a sale that is not a retail
24 sale, and in which the carpet is intended to be resold.

25 NEW SECTION. **Sec. 3.** (1) By January 1, 2013, a producer of carpet
26 sold in or into the state shall participate in a carpet stewardship
27 organization. A producer shall notify the department of its
28 participation in a carpet stewardship organization.

29 (2)(a) By January 31, 2014, every carpet stewardship organization
30 must submit to the department sales data from the years 2003 through
31 2012. The data must include the amount of carpet sold in or into the
32 state by square yards and weight in pounds, separating data for
33 residential and commercial carpet, providing a total for each and an
34 overall total, of each producer participating in the carpet stewardship
35 organization.

36 (b) Beginning January 31, 2014, and annually thereafter in an
37 annual report as required in section 6 of this act, every carpet

1 stewardship organization must submit to the department the previous
2 year's sales data that includes the amount of carpet sold in or into
3 the state by square yards and weight in pounds, for residential and
4 commercial carpet, providing a total for each and an overall total, of
5 each producer participating in the carpet stewardship organization.
6 Sales data may be prorated by population from national or state data.

7 (c) On March 1, 2013, each carpet stewardship organization must
8 submit an initial fee of one thousand dollars for each producer
9 represented to cover the one-time cost of the department's estimated
10 first annual fee as established in section 9 of this act.

11 (3)(a) A carpet stewardship organization shall submit to the
12 department a product stewardship program plan that is consistent with
13 the requirements of this section by January 1, 2014. A carpet
14 stewardship organization with a department-approved product stewardship
15 program plan must implement their program by January 1, 2015.

16 (b) A carpet stewardship organization must consult with
17 stakeholders, including retailers, installers, collectors, recyclers,
18 and local governments during the development of the product stewardship
19 program plan.

20 (4) A product stewardship program must:

21 (a) Have in place methods and systems for financing the program and
22 collecting, transporting, processing for recycling, and recycling
23 discarded carpet. The financing system must be sufficient for capital
24 costs of the program and for the product stewardship program to fund:
25 Education and outreach efforts; administrative and operational
26 activities; and other efforts that will advance the purposes of this
27 chapter;

28 (b) Be provided throughout the state at no cost to all entities
29 that remove carpet, including but not limited to carpet and flooring
30 installers, and construction and demolition companies. The program may
31 not charge a fee at the time discarded carpet is collected. Collection
32 services must include convenient locations for entities that remove
33 carpet and, at minimum, one collection location open to the public per
34 one hundred thousand residents in each county, and a minimum of one
35 collection site open to the public per county. A collection site in an
36 adjacent county may be deemed adequate after consultation with
37 stakeholders described in subsection (3)(b) of this section and (g) of
38 this subsection;

1 (c) Include:

2 (i) Interim milestones, described by the stewardship organization,
3 that will:

4 (A) Increase the recycling of discarded carpet throughout the
5 state;

6 (B) Increase the recyclability of carpets; and

7 (C) Incentivize the market growth of secondary products made from
8 discarded carpet; and

9 (ii) Four-year performance goals for:

10 (A) Collecting and recycling discarded carpet;

11 (B) Managing discarded carpet consistent with the state's solid
12 waste priorities; and

13 (C) Collecting source separated carpet that meets acceptable
14 standards as required under subsection (7)(a) of this section;

15 (d) Describe how discarded carpet will be collected and recycled
16 throughout the state, including a list of collection locations,
17 processors, and recyclers that will be used in the program;

18 (e) Identify each producer participating in the product stewardship
19 program and provide contact information for each producer and the
20 brands covered by each producer;

21 (f) Include a proposal for achieving and maintaining performance
22 standards, beyond the four-year period described in (c) of this
23 subsection;

24 (g) Provide opportunities for public comment on the product
25 stewardship program, a summary of comments received, and responses to
26 those comments both prior to its submittal as a plan to the department
27 and annually thereafter; and

28 (h) Include education and outreach efforts to consumers, commercial
29 building owners, carpet installation contractors, and retailers
30 throughout the state to promote their participation in achieving the
31 product stewardship program's performance goals. At a minimum, the
32 education and outreach efforts must include:

33 (i) Written materials and templates of materials for reproduction
34 to be provided to retailers, local governments, carpet installation
35 contractors, and consumers at the time of purchase and delivery; and

36 (ii) Information addressing the condition of acceptable carpet as
37 required in subsection (7)(a) of this section. The product stewardship
38 program must provide the templates and materials free of charge.

1 (5) The carpet stewardship organization may offer incentives or
2 payments to collectors if necessary to ensure the carpet stewardship
3 program requirements are met, as described in subsection (4) of this
4 section.

5 (6) Carpet stewardship organizations shall implement programs
6 beginning:

7 (a) January 1, 2015, for the counties of King, Pierce, Snohomish,
8 and Thurston;

9 (b) January 1, 2018, for the counties of Kitsap, Whatcom, Skagit,
10 Island, San Juan, Clallam, Jefferson, Mason, Grays Harbor, Lewis,
11 Cowlitz, and Clark;

12 (c) January 1, 2019, for the counties of Chelan, Kittitas, Benton,
13 Franklin, Walla Walla, Yakima, Grant, Douglas, Adams, Lincoln, and
14 Spokane; and

15 (d) January 1, 2020, for the counties of Asotin, Columbia, Ferry,
16 Garfield, Klickitat, Pacific, Pend Oreille, Skamania, Stevens,
17 Wahkiakum, and Whitman in the cities where a carpet retailer is
18 located, with a minimum of one collection site open to the public per
19 county.

20 (7) The program must:

21 (a) Accept all carpet that is source separated, dry, free of paint,
22 mold, mildew, asbestos, construction or demolition debris, and other
23 hazardous materials or chemicals that render the carpet unrecyclable;
24 and

25 (b) Ensure that carpet collected meeting the standards in (a) of
26 this subsection is processed for recycling or reuse and a minimum of
27 sixty percent of the processed carpet material by weight is recycled or
28 reused.

29 (8) The carpet stewardship organization administering a product
30 stewardship program shall notify the department within thirty days
31 after instituting a change that affects any part of requirements in
32 subsection (4) of this section to an approved product stewardship
33 program.

34 NEW SECTION. **Sec. 4.** The department or its designee may inspect
35 or review audits of carpet stewardship organizations and of carpet
36 processing and recycling facilities used to fulfill the requirements of
37 a product stewardship program.

1 NEW SECTION. **Sec. 5.** (1) Within sixty days after receiving a
2 product stewardship program plan for approval, the department shall
3 review the program, determine whether the program complies with the
4 requirements of this chapter, and notify the carpet stewardship
5 organization of its decision to approve or not approve the program.

6 (2) A product stewardship program may not be approved if the
7 department determines that the program will have the effect of reducing
8 the level of recycling of discarded carpet that has been achieved since
9 the effective date of this section or if the product stewardship
10 program does not meet program elements as required in section 3 of this
11 act.

12 (3) The department shall describe the reasons for its decision to
13 not approve a product stewardship program in the notice to a carpet
14 stewardship organization. The carpet stewardship organization shall
15 revise and resubmit the product stewardship program within sixty days
16 after receiving notice that the program was not approved. The
17 department shall review and approve or not approve the revised product
18 stewardship program within sixty days after receipt.

19 (4) On and after January 1, 2015, a product stewardship program not
20 approved by the department is not in compliance with this chapter. The
21 department must list any producer relying on such a product stewardship
22 program as noncompliant with the requirements of this chapter.

23 (5) The department must make all approved product stewardship
24 programs and annual reports available for public review on the
25 department's web site and at the department's headquarters. By January
26 1, 2015, and no later than January 1st annually thereafter, the
27 department shall post a notice on its web site listing producers that
28 are and are not in compliance with this chapter.

29 (6) The decision of the department to approve or to not approve a
30 product stewardship program under this section is appealable to the
31 pollution control hearings board as provided in RCW 43.21B.130.

32 NEW SECTION. **Sec. 6.** (1) Beginning January 31, 2016, and each
33 year thereafter, a carpet stewardship organization must submit to the
34 department an annual report describing its activities during the
35 preceding calendar year to achieve the purposes of this chapter.

36 (2) The report must demonstrate that the carpet stewardship
37 organization's product stewardship program has met the performance

1 goals of the program including achieving continuous meaningful
2 improvement in the rate of recycling discarded carpet subject to the
3 program. Further, the report must include all of the following:

4 (a) A description of how the product stewardship program has
5 implemented all of its required elements, including collecting,
6 transporting, processing, and recycling activities and how the program
7 has been implemented throughout the state as required in section 3(6)
8 of this act;

9 (b) The amount of carpet sold in the state, by square yards and
10 weight in pounds, for residential and commercial carpet and provide an
11 overall total, during the reporting period. Sales data may be prorated
12 by population from national or state data;

13 (c) The names and locations of carpet collectors used by the
14 product stewardship program during the reporting period;

15 (d) The amount of discarded carpet recycled and reused, by weight
16 in pounds, during the reporting period;

17 (e) The names and locations of carpet processing and recycling
18 facilities used by the product stewardship program and recycled and
19 reused end uses of collected carpet by weight, during the reporting
20 period;

21 (f) The amount of discarded carpet collected but not recycled or
22 reused, by weight, and its ultimate disposition;

23 (g) The total cost of implementing the product stewardship program
24 and an evaluation of the financing system;

25 (h) An evaluation of the effectiveness of the product stewardship
26 program, and anticipated steps, if needed, to improve performance
27 throughout the state;

28 (i) Examples of educational materials that were provided to
29 consumers, commercial building owners, carpet installation contractors,
30 and retailers during the reporting period and a summary of outreach
31 efforts, including timeline and frequency; and

32 (j) A summary of public comments received regarding the product
33 stewardship program and response to those comments.

34 (3) Proprietary information submitted to the department under this
35 chapter is exempt from public disclosure.

36 NEW SECTION. **Sec. 7.** (1) Beginning March 1, 2013, a producer that

1 offers carpet for sale in the state, but is not participating in a
2 carpet stewardship organization, is not in compliance with this
3 chapter.

4 (2) No producer may sell or offer for sale carpet in or into the
5 state unless the producer of the carpet is participating in an approved
6 product stewardship program. The department shall send a written
7 warning and a copy of this chapter and any rules adopted to implement
8 this chapter to a producer that is not participating in an approved
9 program. The written warning must inform the producer that it must
10 participate in an approved program within thirty days of the notice.

11 (3) A producer that is not listed on the department's internet web
12 site as required in section 5(5) of this act, but demonstrates to the
13 satisfaction of the department that the producer is in compliance with
14 this chapter before the next notice is required to be posted, may
15 request a certification letter from the department stating that the
16 producer is in compliance with this chapter. The letter constitutes
17 proof of compliance with this chapter.

18 (4) No one may distribute or sell carpet in or into the state from
19 producers who are not in compliance with this chapter. Wholesalers,
20 distributors, and retailers in the state who have: (a) Possession of
21 carpet on the date that restrictions on the sale of carpet become
22 effective may exhaust their existing stock through sales; and (b)
23 specified and bid for a project prior to the effective date of this
24 section or prior to the date a producer has been determined to be out
25 of compliance may complete the specified project.

26 (5) The department shall serve, or send with delivery confirmation,
27 a written warning explaining the violation to any person known to be
28 distributing or selling carpet in or into the state from producers who
29 are not participating in a product stewardship program or who are not
30 in compliance with this chapter.

31 NEW SECTION. **Sec. 8.** (1) A carpet stewardship organization that
32 incurs costs in excess of five thousand dollars in collecting,
33 handling, recycling, or properly disposing of carpet manufactured by a
34 producer that (a) is required by section 3 of this act to operate or
35 participate in a carpet stewardship organization and did not at the
36 time the carpet was collected, and was not covered by the participation
37 by another manufacturer in a stewardship program and (b) can reasonably

1 be identified from a brand or marking on the carpet or by other
2 information, may bring a civil action or actions to recover costs,
3 damages, and fees specified in subsection (2) of this section, and if
4 successful shall be awarded these amounts.

5 (2) In an action brought pursuant to subsection (1) of this
6 section, the plaintiff carpet stewardship organization shall recover
7 from the defendant carpet manufacturer the costs the plaintiff incurred
8 in collecting, handling, recycling, or properly disposing of carpet
9 reasonably identified as having originated from the defendant carpet
10 manufacturer, plus an amount of damages equal to no less than three
11 times those costs, plus the plaintiff's attorneys' fees and costs of
12 litigation.

13 (3) An action to recover the costs specified in this section may be
14 brought in any court in the state, without regard to the amount in
15 dispute.

16 NEW SECTION. **Sec. 9.** (1) Beginning February 1, 2014, and annually
17 thereafter, the department shall establish an annual fee for each
18 carpet stewardship organization sufficient to cover only the
19 department's costs of administering and enforcing carpet stewardship
20 programs under this chapter. The total amount of annual fees collected
21 must not exceed the amount necessary to recover costs incurred by the
22 department in connection with the administration and oversight of the
23 requirements of this chapter. Any unspent money from the previous year
24 must be retained in the carpet product stewardship account created in
25 section 12 of this act and applied to reduce the payments by carpet
26 stewardship organizations in the following year. The department shall
27 establish a fee based on market share data provided by carpet
28 stewardship organizations as required in section 3(2)(b) of this act.

29 (2) The department must estimate the annual fee for the period of
30 July 1st through June 30th and notify the carpet stewardship
31 organizations by March 1st of each year. The department must collect
32 the annual fee from the carpet stewardship organizations by June 30th.

33 NEW SECTION. **Sec. 10.** Any person acquiring a producer, or who has
34 acquired a producer, has all responsibility for the acquired producer's
35 carpet, including carpet manufactured prior to July 1, 2012, unless

1 that responsibility remains with another entity under the purchase
2 agreement. The acquiring producer must provide the department a letter
3 from the entity that accepts responsibility for the carpet.

4 NEW SECTION. **Sec. 11.** Nothing in this chapter changes or limits
5 the authority of the Washington utilities and transportation commission
6 to regulate collection of solid waste, including curbside collection of
7 residential recyclable materials, nor does this chapter change or limit
8 the authority of a city or town to provide such service itself or by
9 contract under RCW 81.77.020.

10 NEW SECTION. **Sec. 12.** The carpet product stewardship account is
11 created in the state treasury. All receipts received by the department
12 from carpet stewardship organizations must be deposited in the account.
13 Expenditures from the account may be used by the department only for
14 administering this chapter. Moneys in the account may be spent only
15 after appropriation.

16 **Sec. 13.** RCW 43.21B.110 and 2010 c 210 s 7 and 2010 c 84 s 2 are
17 each reenacted and amended to read as follows:

18 (1) The hearings board shall only have jurisdiction to hear and
19 decide appeals from the following decisions of the department, the
20 director, local conservation districts, the air pollution control
21 boards or authorities as established pursuant to chapter 70.94 RCW,
22 local health departments, the department of natural resources, the
23 department of fish and wildlife, and the parks and recreation
24 commission:

25 (a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431,
26 70.105.080, 70.107.050, 76.09.170, 77.55.291, 78.44.250, 88.46.090,
27 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

28 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
29 43.27A.190, 70.94.211, 70.94.332, section 5 of this act, 70.105.095,
30 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

31 (c) A final decision by the department or director made under
32 chapter 183, Laws of 2009.

33 (d) Except as provided in RCW 90.03.210(2), the issuance,
34 modification, or termination of any permit, certificate, or license by
35 the department or any air authority in the exercise of its

1 jurisdiction, including the issuance or termination of a waste disposal
2 permit, the denial of an application for a waste disposal permit, the
3 modification of the conditions or the terms of a waste disposal permit,
4 or a decision to approve or deny an application for a solid waste
5 permit exemption under RCW 70.95.300.

6 (e) Decisions of local health departments regarding the grant or
7 denial of solid waste permits pursuant to chapter 70.95 RCW.

8 (f) Decisions of local health departments regarding the issuance
9 and enforcement of permits to use or dispose of biosolids under RCW
10 70.95J.080.

11 (g) Decisions of the department regarding waste-derived fertilizer
12 or micronutrient fertilizer under RCW 15.54.820, and decisions of the
13 department regarding waste-derived soil amendments under RCW 70.95.205.

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

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

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

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

29 (l) Decisions of the department of fish and wildlife to issue,
30 deny, condition, or modify a hydraulic project approval permit under
31 chapter 77.55 RCW.

32 (m) Decisions of the department of natural resources that are
33 reviewable under RCW 78.44.270.

34 (n) Decisions of a state agency that is an authorized public entity
35 under RCW 79.100.010 to take temporary possession or custody of a
36 vessel or to contest the amount of reimbursement owed that are
37 reviewable under RCW 79.100.120.

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

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

5 (b) Hearings conducted by the department pursuant to RCW 70.94.332,
6 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

7 (c) Appeals of decisions by the department under RCW 90.03.110 and
8 90.44.220.

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

11 ~~((e) Appeals of decisions by the department as provided in chapter
12 43.21B RCW.))~~

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

16 **Sec. 14.** RCW 43.21B.110 and 2010 c 210 s 8 and 2010 c 84 s 3 are
17 each reenacted and amended to read as follows:

18 (1) The hearings board shall only have jurisdiction to hear and
19 decide appeals from the following decisions of the department, the
20 director, local conservation districts, the air pollution control
21 boards or authorities as established pursuant to chapter 70.94 RCW,
22 local health departments, the department of natural resources, the
23 department of fish and wildlife, and the parks and recreation
24 commission:

25 (a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431,
26 70.105.080, 70.107.050, 76.09.170, 77.55.291, 78.44.250, 88.46.090,
27 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

28 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
29 43.27A.190, 70.94.211, 70.94.332, section 5 of this act, 70.105.095,
30 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

31 (c) Except as provided in RCW 90.03.210(2), the issuance,
32 modification, or termination of any permit, certificate, or license by
33 the department or any air authority in the exercise of its
34 jurisdiction, including the issuance or termination of a waste disposal
35 permit, the denial of an application for a waste disposal permit, the
36 modification of the conditions or the terms of a waste disposal permit,

1 or a decision to approve or deny an application for a solid waste
2 permit exemption under RCW 70.95.300.

3 (d) Decisions of local health departments regarding the grant or
4 denial of solid waste permits pursuant to chapter 70.95 RCW.

5 (e) Decisions of local health departments regarding the issuance
6 and enforcement of permits to use or dispose of biosolids under RCW
7 70.95J.080.

8 (f) Decisions of the department regarding waste-derived fertilizer
9 or micronutrient fertilizer under RCW 15.54.820, and decisions of the
10 department regarding waste-derived soil amendments under RCW 70.95.205.

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

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

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

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

26 (k) Decisions of the department of fish and wildlife to issue,
27 deny, condition, or modify a hydraulic project approval permit under
28 chapter 77.55 RCW.

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

31 (m) Decisions of a state agency that is an authorized public entity
32 under RCW 79.100.010 to take temporary possession or custody of a
33 vessel or to contest the amount of reimbursement owed that are
34 reviewable under RCW 79.100.120.

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

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

1 (b) Hearings conducted by the department pursuant to RCW 70.94.332,
2 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

3 (c) Appeals of decisions by the department under RCW 90.03.110 and
4 90.44.220.

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

7 ~~((e) Appeals of decisions by the department as provided in chapter
8 43.211 RCW.))~~

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

12 NEW SECTION. **Sec. 15.** By December 1, 2017, the department shall
13 report to the appropriate committees of the legislature concerning the
14 status of adoption and implementation of carpet stewardship programs
15 and recommendations for revisions to improve the rate of carpet
16 recycling and other goals of this chapter.

17 **Sec. 16.** RCW 42.56.270 and 2011 1st sp.s. c 14 s 15 are each
18 amended to read as follows:

19 The following financial, commercial, and proprietary information is
20 exempt from disclosure under this chapter:

21 (1) Valuable formulae, designs, drawings, computer source code or
22 object code, and research data obtained by any agency within five years
23 of the request for disclosure when disclosure would produce private
24 gain and public loss;

25 (2) Financial information supplied by or on behalf of a person,
26 firm, or corporation for the purpose of qualifying to submit a bid or
27 proposal for (a) a ferry system construction or repair contract as
28 required by RCW 47.60.680 through 47.60.750 or (b) highway construction
29 or improvement as required by RCW 47.28.070;

30 (3) Financial and commercial information and records supplied by
31 private persons pertaining to export services provided under chapters
32 43.163 and 53.31 RCW, and by persons pertaining to export projects
33 under RCW 43.23.035;

34 (4) Financial and commercial information and records supplied by
35 businesses or individuals during application for loans or program

1 services provided by chapters 43.325, 43.163, 43.160, 43.330, and
2 43.168 RCW, or during application for economic development loans or
3 program services provided by any local agency;

4 (5) Financial information, business plans, examination reports, and
5 any information produced or obtained in evaluating or examining a
6 business and industrial development corporation organized or seeking
7 certification under chapter 31.24 RCW;

8 (6) Financial and commercial information supplied to the state
9 investment board by any person when the information relates to the
10 investment of public trust or retirement funds and when disclosure
11 would result in loss to such funds or in private loss to the providers
12 of this information;

13 (7) Financial and valuable trade information under RCW 51.36.120;

14 (8) Financial, commercial, operations, and technical and research
15 information and data submitted to or obtained by the clean Washington
16 center in applications for, or delivery of, program services under
17 chapter 70.95H RCW;

18 (9) Financial and commercial information requested by the public
19 stadium authority from any person or organization that leases or uses
20 the stadium and exhibition center as defined in RCW 36.102.010;

21 (10)(a) Financial information, including but not limited to account
22 numbers and values, and other identification numbers supplied by or on
23 behalf of a person, firm, corporation, limited liability company,
24 partnership, or other entity related to an application for a horse
25 racing license submitted pursuant to RCW 67.16.260(1)(b), liquor
26 license, gambling license, or lottery retail license;

27 (b) Internal control documents, independent auditors' reports and
28 financial statements, and supporting documents: (i) Of house-banked
29 social card game licensees required by the gambling commission pursuant
30 to rules adopted under chapter 9.46 RCW; or (ii) submitted by tribes
31 with an approved tribal/state compact for class III gaming;

32 (11) Proprietary data, trade secrets, or other information that
33 relates to: (a) A vendor's unique methods of conducting business; (b)
34 data unique to the product or services of the vendor; or (c)
35 determining prices or rates to be charged for services, submitted by
36 any vendor to the department of social and health services for purposes
37 of the development, acquisition, or implementation of state purchased
38 health care as defined in RCW 41.05.011;

1 (12)(a) When supplied to and in the records of the department of
2 commerce:

3 (i) Financial and proprietary information collected from any person
4 and provided to the department of commerce pursuant to RCW
5 43.330.050(8); and

6 (ii) Financial or proprietary information collected from any person
7 and provided to the department of commerce or the office of the
8 governor in connection with the siting, recruitment, expansion,
9 retention, or relocation of that person's business and until a siting
10 decision is made, identifying information of any person supplying
11 information under this subsection and the locations being considered
12 for siting, relocation, or expansion of a business;

13 (b) When developed by the department of commerce based on
14 information as described in (a)(i) of this subsection, any work product
15 is not exempt from disclosure;

16 (c) For the purposes of this subsection, "siting decision" means
17 the decision to acquire or not to acquire a site;

18 (d) If there is no written contact for a period of sixty days to
19 the department of commerce from a person connected with siting,
20 recruitment, expansion, retention, or relocation of that person's
21 business, information described in (a)(ii) of this subsection will be
22 available to the public under this chapter;

23 (13) Financial and proprietary information submitted to or obtained
24 by the department of ecology or the authority created under chapter
25 70.95N RCW to implement chapter 70.95N RCW;

26 (14) Financial, commercial, operations, and technical and research
27 information and data submitted to or obtained by the life sciences
28 discovery fund authority in applications for, or delivery of, grants
29 under chapter 43.350 RCW, to the extent that such information, if
30 revealed, would reasonably be expected to result in private loss to the
31 providers of this information;

32 (15) Financial and commercial information provided as evidence to
33 the department of licensing as required by RCW 19.112.110 or
34 19.112.120, except information disclosed in aggregate form that does
35 not permit the identification of information related to individual fuel
36 licensees;

37 (16) Any production records, mineral assessments, and trade secrets

1 submitted by a permit holder, mine operator, or landowner to the
2 department of natural resources under RCW 78.44.085;

3 (17)(a) Farm plans developed by conservation districts, unless
4 permission to release the farm plan is granted by the landowner or
5 operator who requested the plan, or the farm plan is used for the
6 application or issuance of a permit;

7 (b) Farm plans developed under chapter 90.48 RCW and not under the
8 federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject to
9 RCW 42.56.610 and 90.64.190;

10 (18) Financial, commercial, operations, and technical and research
11 information and data submitted to or obtained by a health sciences and
12 services authority in applications for, or delivery of, grants under
13 RCW 35.104.010 through 35.104.060, to the extent that such information,
14 if revealed, would reasonably be expected to result in private loss to
15 providers of this information;

16 (19) Information gathered under chapter 19.85 RCW or RCW 34.05.328
17 that can be identified to a particular business;

18 (20) Financial and commercial information submitted to or obtained
19 by the University of Washington, other than information the university
20 is required to disclose under RCW 28B.20.150, when the information
21 relates to investments in private funds, to the extent that such
22 information, if revealed, would reasonably be expected to result in
23 loss to the University of Washington consolidated endowment fund or to
24 result in private loss to the providers of this information; (~~and~~)

25 (21) Financial, commercial, operations, and technical and research
26 information and data submitted to or obtained by innovate Washington in
27 applications for, or delivery of, grants and loans under chapter 43.333
28 RCW, to the extent that such information, if revealed, would reasonably
29 be expected to result in private loss to the providers of this
30 information; and

31 (22) Proprietary data submitted to the department of ecology under
32 section 6(3) of this act.

33 NEW SECTION. **Sec. 17.** If any provision of this act or its
34 application to any person or circumstance is held invalid, the
35 remainder of the act or the application of the provision to other
36 persons or circumstances is not affected.

1 NEW SECTION. **Sec. 18.** Section 13 of this act expires June 30,
2 2019.

3 NEW SECTION. **Sec. 19.** Section 14 of this act takes effect June
4 30, 2019.

5 NEW SECTION. **Sec. 20.** Sections 1 through 12 and 15 of this act
6 constitute a new chapter in Title 70 RCW.

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