

**E2SSB 5022** - H COMM AMD

By Committee on Environment & Energy

**NOT ADOPTED 04/07/2021**

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

3 "NEW SECTION. **Sec. 1.** FINDINGS—INTENT. (1) The legislature  
4 finds that minimum recycled content requirements for plastic beverage  
5 containers, trash bags, and household cleaning and personal care  
6 product containers, bans on problematic and unnecessary plastic  
7 packaging, and standards for customer opt-in for food service  
8 packaging and accessories are among actions needed to improve the  
9 state's recycling system as well as reduce litter.

10 (2) By implementing a minimum recycled content requirement for  
11 plastic beverage containers, trash bags, and household cleaning and  
12 personal care product containers; prohibiting the sale and  
13 distribution of certain expanded polystyrene products; and  
14 establishing optional serviceware requirements as provided for in  
15 this chapter; the legislature intends to take another step towards  
16 ensuring plastic packaging and other packaging materials are reduced,  
17 recycled, and reused.

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

21 (1) "Beverage" means beverages identified in (a) through (f) of  
22 this subsection, intended for human or animal consumption, and in a  
23 quantity more than or equal to two fluid ounces and less than or  
24 equal to one gallon:

- 25 (a) Water and flavored water;
- 26 (b) Beer or other malt beverages;
- 27 (c) Wine;
- 28 (d) Distilled spirits;
- 29 (e) Mineral water, soda water, and similar carbonated soft  
30 drinks; and

1 (f) Any beverage other than those specified in (a) through (e) of  
2 this subsection, except infant formula as defined in 21 U.S.C. Sec.  
3 321(z), medical food as defined in 21 U.S.C. Sec. 360ee(b)(3), or  
4 fortified oral nutritional supplements used for persons who require  
5 supplemental or sole source nutritional needs due to special dietary  
6 needs directly related to cancer, chronic kidney disease, diabetes,  
7 or other medical conditions as determined by the department.

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

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

15 (4) "Covered product" means an item in one of the following  
16 categories subject to minimum postconsumer recycled content  
17 requirements:

18 (a) Plastic trash bags;

19 (b) Household cleaning and personal care products that use  
20 plastic household cleaning and personal care product containers; and

21 (c) Beverages that use plastic beverage containers.

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

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

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

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

38 (9) "Food service product" means a product intended for one-time  
39 use and used for food or drink offered for sale or use. Food service  
40 products include, but are not limited to, containers, plates, bowls,

1 cups, lids, beverage containers, meat trays, deli rounds, utensils,  
2 sachets, straws, condiment packaging, clamshells and other hinged or  
3 lidded containers, wrap, and portion cups.

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

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

7 (b) Household cleaning products;

8 (c) Liquid soap;

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

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

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

16 (12) "Licensee" means a manufacturer or entity who licenses a  
17 brand and manufactures a covered product under that brand.

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

23 (14) "Plastic beverage container" means a bottle or other rigid  
24 container that is capable of maintaining its shape when empty,  
25 comprised solely of one or multiple plastic resins designed to  
26 contain a beverage. Plastic beverage container does not include:

27 (a) Refillable beverage containers, such as containers that are  
28 sufficiently durable for multiple rotations of their original or  
29 similar purpose and are intended to function in a system of reuse;

30 (b) Rigid plastic containers or plastic bottles that are or are  
31 used for medical devices, medical products that are required to be  
32 sterile, nonprescription and prescription drugs, or dietary  
33 supplements as defined in RCW 82.08.0293;

34 (c) Bladders or pouches that contain wine; or

35 (d) Liners, caps, corks, closures, labels, and other items added  
36 externally or internally but otherwise separate from the structure of  
37 the bottle or container.

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

1 (i) A minimum capacity of eight fluid ounces or its equivalent  
2 volume;

3 (ii) A maximum capacity of five fluid gallons or its equivalent  
4 volume;

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

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

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

8 (b) "Plastic household cleaning and personal care product  
9 container" does not include:

10 (i) Refillable household cleaning and personal care product  
11 containers (i.e., containers that are sufficiently durable for  
12 multiple rotations of their original or similar purpose and are  
13 intended to function in a system of reuse); and

14 (ii) Rigid plastic containers or plastic bottles that are medical  
15 devices, medical products that are required to be sterile, and  
16 nonprescription and prescription drugs, dietary supplements as  
17 defined in RCW 82.08.0293, and packaging used for those products.

18 (16) "Plastic trash bag" means a bag that is made of  
19 noncompostable plastic, is at least 0.70 mils thick, and is designed  
20 and manufactured for use as a container to hold, store, or transport  
21 materials to be discarded or recycled, and includes, but is not  
22 limited to, a garbage bag, recycling bag, lawn or leaf bag, can liner  
23 bag, kitchen bag, or compactor bag. "Plastic trash bag" does not  
24 include any compostable bags meeting the requirements of chapter  
25 70A.455 RCW.

26 (17) "Plastic trash bag manufacturing industry" means an  
27 association that represents companies that manufacture plastic trash  
28 bags.

29 (18) "Postconsumer recycled content" means the content of a  
30 covered product made of recycled materials derived specifically from  
31 recycled material generated by households or by commercial,  
32 industrial, and institutional facilities in their role as end users  
33 of a product that can no longer be used for its intended purpose.  
34 "Postconsumer recycled content" includes returns of material from the  
35 distribution chain.

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

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

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

11 (iii) If there is no person described in (a)(i) and (ii) of this  
12 subsection within the United States, the producer is the person who  
13 imports the covered product into the United States to be sold,  
14 offered for sale, or distributed in or into this state.

15 (b) "Producer" does not include:

16 (i) Government agencies, municipalities, or other political  
17 subdivisions of the state;

18 (ii) Registered 501(c)(3) charitable organizations and 501(c)(4)  
19 social welfare organizations; or

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

22 (A) Less than one ton of a single category of plastic beverage  
23 containers, plastic household cleaning and personal care containers,  
24 or plastic trash bags each year; or

25 (B) A single category of a covered product that in aggregate  
26 generates less than \$1,000,000 each year in revenue.

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

31 (b) "Retail establishment" includes, but is not limited to, food  
32 service businesses, grocery stores, department stores, hardware  
33 stores, home delivery services, pharmacies, liquor stores,  
34 restaurants, catering trucks, convenience stores, or other retail  
35 stores or vendors, including temporary stores or vendors at farmers  
36 markets, street fairs, and festivals.

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

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

3 NEW SECTION. **Sec. 3.** POSTCONSUMER RECYCLED CONTENT. (1)(a)  
4 Beginning January 1, 2023, producers that offer for sale, sell, or  
5 distribute in or into Washington:

6 (i) Beverages other than wine in 187 milliliter plastic beverage  
7 containers and dairy milk in plastic beverage containers must meet  
8 minimum postconsumer recycled content requirements established under  
9 subsection (4) of this section; and

10 (ii) Plastic trash bags must meet minimum postconsumer recycled  
11 content requirements established under subsection (6) of this  
12 section.

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

18 (c) Beginning January 1, 2028, producers that offer for sale,  
19 sell, or distribute in or into Washington wine in 187 milliliter  
20 plastic beverage containers or dairy milk in plastic beverage  
21 containers must meet minimum postconsumer recycled content as  
22 required under subsection (4) of this section.

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

28 (b) The registration information submitted to the department  
29 under this section must include a list of the producers and the brand  
30 names of the covered products represented in the registration  
31 submittal. Beginning April 1, 2024, for plastic trash bags and  
32 plastic beverage containers other than dairy milk and wine in 187  
33 milliliter plastic beverage containers, April 1, 2026, for plastic  
34 household and personal care product containers, and April 1, 2027,  
35 for wine in 187 milliliter plastic beverage containers and dairy  
36 milk, a producer may submit registration information at the same time  
37 as the information submitted through the annual reporting required  
38 under section 4 of this act.

1 (3) (a) By January 31, 2022, and every January 31st thereafter,  
2 the department must identify the annual costs it expects to incur to  
3 implement this section and sections 4 through 7 and 12 of this act in  
4 the next fiscal year for each category of covered products, including  
5 rule making, and submit invoices of costs to producers or their  
6 third-party representatives. The department must determine an annual  
7 payment by producers or their third-party representative for each  
8 category of covered products that is adequate to cover, but not  
9 exceed, the department's full costs to implement, administer, and  
10 enforce this chapter in the next fiscal year, including rule making,  
11 for that category of covered product. The department must equitably  
12 determine payment amounts for an individual producer and third-party  
13 representatives within each category of covered products.

14 (b) The department must:

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

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

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

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

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

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

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

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

37 (b) For wine in 187 milliliter plastic beverage containers and  
38 dairy milk:

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

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

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

5 (5) A producer of household cleaning and personal care products  
6 in plastic containers must meet the following annual minimum  
7 postconsumer recycled content percentage on average for the total  
8 quantity of plastic containers, by weight, that are sold, offered for  
9 sale, or distributed in or into Washington by the producer effective:

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

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

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

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

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

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

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

27 (7)(a) Beginning January 1, 2025, the department may, on an  
28 annual basis, review and determine for the following year whether to  
29 adjust the minimum postconsumer recycled content percentage required  
30 for a type of container or product or category of covered products  
31 pursuant to subsection (4), (5), or (6) of this section. The  
32 department's review may be initiated by the department or at the  
33 petition of a producer or a producer manufacturing industry not more  
34 than once annually. In making a determination pursuant to this  
35 subsection, the department must consider, at a minimum, all of the  
36 following factors:

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

40 (ii) Recycling rates;

1 (iii) The availability of recycled plastic suitable to meet the  
2 minimum postconsumer recycled content requirements pursuant to  
3 subsection (4), (5), or (6) of this section, including the  
4 availability of high quality recycled plastic, and food-grade  
5 recycled plastic from recycling programs;

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

7 (v) The technical feasibility of achieving the minimum  
8 postconsumer recycled content requirements in covered products that  
9 are regulated under 21 C.F.R., chapter I, subchapter G, 7 U.S.C. Sec.  
10 136, 15 U.S.C. Sec. 1471-1477, 49 C.F.R. Sec. 178.33b, 49 C.F.R. Sec.  
11 173, 40 C.F.R. Sec. 152.10, 15 U.S.C. Sec. 1261-1278, 49 U.S.C. 5101  
12 et seq., 49 C.F.R. Sec. 178.509, 49 C.F.R. Sec. 179.522, 49 C.F.R.  
13 Sec. 178.600-609, and other federal laws; and

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

16 (b) Under (a) of this subsection:

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

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

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

31 (c) The manufacturing industry for a covered product or a  
32 producer may appeal a decision by the department to adjust  
33 postconsumer recycled content percentages under (a) of this  
34 subsection to the pollution control hearings board within 30 days of  
35 the department's determination.

36 (8) A producer that does not achieve the postconsumer recycled  
37 content requirements established under this section is subject to  
38 penalties established in section 5 of this act.

39 (9)(a) A city, town, county, or municipal corporation may not  
40 implement local recycled content requirements for a covered product

1 that is subject to minimum postconsumer recycled content requirements  
2 established in this section.

3 (b) A city, town, county, or municipal corporation may establish  
4 local purchasing requirements that include recycled content standards  
5 that exceed the minimum recycled content requirements established by  
6 this chapter for plastic household cleaning and personal care product  
7 containers or plastic trash bags purchased by a city, town, or  
8 municipal corporation, or its contractor.

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

12 NEW SECTION. **Sec. 4.** PRODUCER REPORTING REQUIREMENTS. (1) (a)  
13 Except as provided in (b) and (c) of this subsection, beginning April  
14 1, 2024, each producer of covered products, individually or through a  
15 third party representing a group of producers, must provide an annual  
16 report to the department that includes the amount in pounds of virgin  
17 plastic and the amount in pounds of postconsumer recycled content by  
18 resin type used for each category of covered products that are sold,  
19 offered for sale, or distributed in or into Washington state,  
20 including the total postconsumer recycled content resins as a  
21 percentage of total weight. The report must be submitted in a format  
22 and manner prescribed by the department. A manufacturer may submit  
23 national data allocated on a per capita basis for Washington to  
24 approximate the information required in this subsection if the  
25 producer demonstrates to the department that state level data are not  
26 available or feasible to generate.

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

30 (c) The requirements of (a) of this subsection apply to wine in  
31 187 milliliter plastic beverage containers and dairy milk in plastic  
32 containers beginning April 1, 2028.

33 (d) The department must post the information reported under this  
34 subsection on its website, except as provided in subsection (2) of  
35 this section.

36 (2) 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. 5.** PENALTIES FOR POSTCONSUMER RECYCLED  
8 CONTENT REQUIREMENTS. (1)(a) A producer that does not meet the  
9 minimum postconsumer recycled content requirements pursuant to  
10 section 3 of this act is subject to a penalty pursuant to this  
11 section. Beginning June 1st of the year following the first year that  
12 minimum postconsumer recycled product content requirements apply to a  
13 category of covered product, the penalty must be calculated  
14 consistent with subsection (2) of this section unless a penalty  
15 reduction or corrective action plan has been approved pursuant to  
16 subsection (3) of this section, and calculated in accordance with  
17 subsection (2) of this section.

18 (b) A producer that is assessed a penalty pursuant to this  
19 section may pay the penalty to the department in one payment, in  
20 quarterly installments, or arrange an alternative payment schedule  
21 subject to the approval of the department, not to exceed a 12-month  
22 payment plan unless an extension is needed due to unforeseen  
23 circumstances, such as a public health emergency, state of emergency,  
24 or natural disaster.

25 (2) Beginning June 1st of the year following the first year that  
26 minimum postconsumer recycled product content requirements apply to a  
27 category of covered product, and annually thereafter, the department  
28 shall determine the penalty for the previous calendar year based on  
29 the postconsumer recycled content requirement of the previous  
30 calendar year. The department shall calculate the amount of the  
31 penalty based upon the amounts in pounds in the aggregate of virgin  
32 plastic, postconsumer recycled content plastic, and any other plastic  
33 per category used by the producer to produce covered products sold or  
34 offered for sale in or into Washington state, in accordance with the  
35 following:

36 (a)(i) The annual penalty amount assessed to a producer must  
37 equal the product of both of the following: The total pounds of  
38 plastic used per category multiplied by the relevant minimum  
39 postconsumer recycled plastic target percentage, less the pounds of

1 total plastic multiplied by the percent of postconsumer recycled  
2 plastic used; multiplied by 20 cents.

3 (ii) Example: [(Total pounds of plastic used x minimum  
4 postconsumer recycled plastic target percentage) - (Total pounds of  
5 plastic used x postconsumer recycled plastic percentage used)] x 20  
6 cents.

7 (b) For the purposes of (a) of this subsection, both of the  
8 following apply:

9 (i) The total pounds of plastic used must equal the sum of the  
10 amount of virgin plastic, postconsumer recycled content plastic, and  
11 any other plastic used by the producer, as reported pursuant to  
12 section 4 of this act.

13 (ii) If the product calculated pursuant to (a) of this subsection  
14 is equal to or less than zero, a penalty may not be assessed.

15 (3) (a) (i) The department shall consider granting a reduction of  
16 penalties assessed pursuant to this section for the purpose of  
17 meeting the minimum postconsumer recycled content requirements  
18 required pursuant to section 3 of this act.

19 (ii) In determining whether to grant the reduction pursuant to  
20 (a) (i) of this subsection, the department shall consider, at a  
21 minimum, all of the following factors:

22 (A) Anomalous market conditions;

23 (B) Disruption in, or lack of supply of, recycled plastics; and

24 (C) Other factors that have prevented a producer from meeting the  
25 requirements.

26 (b) In lieu of or in addition to assessing a penalty under this  
27 section, the department may require a producer to submit a corrective  
28 action plan detailing how the producer plans to come into compliance  
29 with section 3 of this act.

30 (4) A producer shall pay the penalty assessed pursuant to this  
31 section, as applicable, based on the information reported to the  
32 department as required under section 4 of this act in the form and  
33 manner prescribed by the department.

34 (5) A producer may appeal the penalty assessed under this section  
35 to the pollution control hearings board within 30 days of assessment.

36 NEW SECTION. **Sec. 6.** PENALTIES FOR REGISTRATION, LABELING, AND  
37 REPORTING. (1) For producers out of compliance with the registration,  
38 reporting, or labeling requirements of section 3, 4, or 7 of this  
39 act, the department shall provide written notification and offer

1 information to producers. For the purposes of this section, written  
2 notification serves as notice of the violation. The department must  
3 issue at least two notices of violation by certified mail prior to  
4 assessing a penalty.

5 (2) A producer in violation of the registration, reporting, or  
6 labeling requirements in section 3, 4, or 7 of this act is subject to  
7 a civil penalty for each day of violation in an amount not to exceed  
8 \$1,000.

9 (3) Penalties collected under this section must be deposited in  
10 the recycling enhancement account created in section 13 of this act.

11 (4) Penalties issued under this section are appealable to the  
12 pollution control hearings board established in chapter 43.21B RCW.

13 NEW SECTION. **Sec. 7.** TRASH BAG LABELING REQUIREMENTS. (1)  
14 Beginning January 1, 2023, producers shall label each container of  
15 plastic trash bags sold, offered for sale, or distributed in or into  
16 Washington with:

17 (a) The name of the producer and the city, state, and country  
18 where the producer is located, which may be designated as the  
19 location of the producer's corporate headquarters; or

20 (b) A uniform resource locator or quick response code to an  
21 internet website that contains the information required pursuant to  
22 (a) of this subsection.

23 (2)(a) The provisions of subsection (1) of this section do not  
24 apply to a plastic bag that is designed and manufactured to hold,  
25 store, or transport dangerous waste or biomedical waste.

26 (b) For the purposes of this subsection:

27 (i) "Biomedical waste" means any waste defined as that term under  
28 RCW 70A.228.010; and

29 (ii) "Dangerous waste" means any waste defined as dangerous  
30 wastes under RCW 70A.300.010.

31 NEW SECTION. **Sec. 8.** A new section is added to chapter 39.26  
32 RCW to read as follows:

33 POSTCONSUMER RECYCLED CONTENT IN PLASTIC TRASH BAGS—PURCHASING  
34 PRIORITY. (1) Beginning July 1, 2024, all state agencies may only  
35 purchase plastic trash bags manufactured by producers that comply  
36 with the minimum recycled content requirements pursuant to section 3  
37 of this act.

1 (2) By July 1, 2024, the department of ecology shall provide to  
2 the department a list of the plastic trash bag producer brands that  
3 comply with the minimum recycled content requirements pursuant to  
4 section 3 of this act, in order for state agencies to purchase  
5 compliant products, updated annually.

6 NEW SECTION. **Sec. 9.** (1)(a) By July 1, 2021, the departments of  
7 commerce and ecology shall jointly select an impartial, third-party  
8 facilitator to convene a stakeholder advisory committee housed within  
9 the recycling development center. The advisory committee shall make  
10 recommendations to the appropriate committees of the legislature on  
11 the development of mandatory postconsumer recycled content  
12 requirements for types of plastic packaging not subject to the  
13 minimum postconsumer recycled content requirements established in  
14 this act, but that are present in the municipal solid waste material  
15 stream or are regularly received by facilities that process  
16 recyclable materials from residential curbside recycling programs.  
17 The recommendations may include rates of mandatory postconsumer  
18 recycled content required by material type, target implementation  
19 dates, and potential exemptions or alternate compliance pathways for  
20 some materials.

21 (b) The facilitator must:

22 (i) Work with the recycling development center to subcontract for  
23 any relevant information regarding recycled plastic market conditions  
24 and barriers to the use of recycled content to the stakeholder  
25 advisory committee to aid in the development of recommendations, to  
26 the extent practicable;

27 (ii) Provide staff and support to the stakeholder advisory  
28 committee meetings; and

29 (iii) Draft reports and other materials for review by the  
30 stakeholder advisory committee.

31 (2) The facilitator identified in subsection (1) of this section  
32 must be selected based on the following criteria:

33 (a) Impartiality regarding policy outcomes;

34 (b) Professional qualifications, relevant experience, and  
35 degrees; and

36 (c) The facilitator must be an environmental conflict resolution  
37 specialist recognized by a national center for environmental conflict  
38 resolution.

1 (3) By December 1, 2021, the facilitator shall submit a report to  
2 the legislature containing the recommendations of the stakeholder  
3 advisory committee after review and approval by the facilitator and  
4 committee. The stakeholder advisory committee shall make  
5 recommendations using consensus-based decision making. The report  
6 must include recommendations where general stakeholder consensus has  
7 been achieved and note dissenting opinions where stakeholder  
8 consensus has not been achieved.

9 (4) The stakeholder advisory committee shall consider information  
10 and findings by a variety of authoritative bodies related to recycled  
11 content, including mechanical and advanced recycling technologies.

12 (5) The facilitator shall select at least one member to the  
13 stakeholder advisory committee from each of the following:

14 (a) The department of commerce;

15 (b) The department of ecology;

16 (c) The utilities and transportation commission;

17 (d) Cities, including both small and large cities and cities  
18 located in urban and rural counties;

19 (e) Counties, including both small and large counties and urban  
20 and rural counties;

21 (f) Municipal collectors;

22 (g) A representative from the private sector waste and recycling  
23 industry that owns or operates a curbside recycling program and a  
24 material recovery facility;

25 (h) A solid waste collection company regulated under chapter  
26 81.77 RCW that provides curbside recycling services;

27 (i) A material recovery facility operator that processes  
28 municipal solid waste from curbside recycling programs;

29 (j) A company that provides curbside recycling service pursuant  
30 to a municipal contract under RCW 81.77.020;

31 (k) A trade association that represents the private sector solid  
32 waste industry;

33 (l) Recycled plastic feedstock users;

34 (m) A trade association representing the plastics recycling  
35 industry;

36 (n) A recycled content certification organization;

37 (o) An environmental justice organization;

38 (p) An environmental nonprofit organization;

39 (q) An environmental nonprofit organization that specializes in  
40 waste and recycling issues;

- 1 (r) Plastic converters/manufacturers of resins;
- 2 (s) A manufacturer of plastic packaging;
- 3 (t) A statewide general business trade association;
- 4 (u) Associations that represent consumer brand companies;
- 5 (v) Representatives of consumer brands;
- 6 (w) A consumer-oriented organization;
- 7 (x) Representatives of the state's most marginalized communities;
- 8 (y) A retailer or representative of the retail association;
- 9 (z) A representative of an advanced recycling technology provider
- 10 that processes plastic material;
- 11 (aa) An association that represents cities;
- 12 (bb) An association that represents county solid waste managers;
- 13 (cc) A representative from a retail grocery association; and
- 14 (dd) A representative from a Washington headquartered online
- 15 retailer.

16 (6) The definitions in section 2 of this act apply throughout  
17 this section unless the context clearly requires otherwise.

18 (7) This section expires January 1, 2022.

19 NEW SECTION. **Sec. 10.** EXPANDED POLYSTYRENE PROHIBITIONS. (1) (a)  
20 Beginning June 1, 2024, the sale and distribution of the following  
21 expanded polystyrene products in or into Washington state is  
22 prohibited:

23 (i) A portable container that is designed or intended to be used  
24 for cold storage, except for expanded polystyrene containers used for  
25 drugs, medical devices, and biological materials as defined in the  
26 federal food, drug, and cosmetic act (21 U.S.C. Sec. 301 et seq.) or  
27 shipping perishable commodities from a wholesale or retail  
28 establishment; and

29 (ii) Food service products that include food containers, plates,  
30 clam shell-style containers, and hot and cold beverage cups. For the  
31 purposes of this subsection (1) (a) (ii), food service products do not  
32 include: Packaging for raw, uncooked, or butchered meat, fish,  
33 poultry, or seafood, vegetables, fruit, or egg cartons.

34 (b) Beginning June 1, 2023, the sale and distribution of void  
35 filling packaging products, which means loose fill packaging  
36 material, also referred to as packing peanuts, in or into Washington  
37 state is prohibited.

38 (2) (a) The department must provide technical assistance and  
39 guidance to manufacturers of prohibited expanded polystyrene

1 products, as requested. For manufacturers out of compliance with the  
2 requirements of this section, the department shall provide written  
3 notification and offer information to manufacturers that sell  
4 prohibited expanded polystyrene products who are in violation of this  
5 section. For the purposes of this section, written notification  
6 serves as notice of the violation. The department must issue at least  
7 two notices of violation by certified mail prior to assessing a  
8 penalty.

9 (b) A manufacturer of products in violation of this section is  
10 subject to a civil penalty for each violation in an amount not to  
11 exceed:

12 (i) \$250 if it is the manufacturer's first penalty; and

13 (ii) \$1,000 if the manufacturer has previously been issued a  
14 civil penalty under this section.

15 (c) Penalties collected under this section must be deposited in  
16 the model toxics control operating account created in RCW  
17 70A.305.180.

18 (d) Penalties issued under this section are appealable to the  
19 pollution control hearings board established in chapter 43.21B RCW.

20 (3) A city, town, county, or municipal corporation may not  
21 implement a local ordinance restricting products prohibited under  
22 subsection (1) of this section unless the ordinance was filed by  
23 April 1, 2021, and enacted by June 1, 2021. An ordinance restricting  
24 products specified under subsection (1) of this section that was not  
25 enacted as of June 1, 2021, is preempted by this section.

26 (4) For the purposes of this section, "manufacturer" includes any  
27 person, firm, association, partnership, corporation, governmental  
28 entity, organization, or joint venture that:

29 (a) Produces the products subject to restrictions in subsection  
30 (1) of this section; or

31 (b) Is an importer or domestic distributor of a product subject  
32 to restrictions in subsection (1) of this section sold or offered for  
33 sale in or into the state.

34 NEW SECTION. **Sec. 11.** OPTIONAL SERVICEWARE. (1) Beginning  
35 January 1, 2022:

36 (a) Except as provided in (b) of this subsection, a food service  
37 business may provide the following only after affirming that the  
38 customer wants the single-use food service product:

39 (i) Utensils;

- 1 (ii) Straws;
- 2 (iii) Condiment packaging; and
- 3 (iv) Beverage cup lids.

4 (b) A food service business may provide beverage cup lids without  
5 customer affirmation for:

- 6 (i) Hot beverages;
- 7 (ii) Beverages provided through delivery service or curbside  
8 pickup; and

9 (iii) Beverages served to customers via a drive-through or at  
10 large, permanent, multistory, enclosed venues that are designed to  
11 hold professional sport or music events and that have a capacity of  
12 at least 5,000 customers.

13 (c) The requirements of this subsection do not apply to food  
14 service products provided to a patient, resident, or customer in:

15 (i) A health care facility or a health care provider as defined  
16 in RCW 70.02.010;

17 (ii) Long-term care facilities identified in RCW 18.51.010,  
18 18.20.020, 70.128.010, 70.97.010, or 18.390.010;

19 (iii) Senior nutrition programs authorized under 45 C.F.R. Sec.  
20 1321, and home delivered meals offered under chapters 74.39 and  
21 74.39A RCW;

22 (iv) Services to individuals with developmental disabilities  
23 under Title 71A RCW and chapter 74.39A RCW; and

24 (v) State hospitals as defined in RCW 72.23.010.

25 (d) The requirements of this subsection (1) apply to the  
26 activities of the department of corrections and the department of  
27 children, youth, and families only to the extent operationally  
28 feasible and practicable.

29 (2) Nothing in this section prohibits a food service business  
30 from making utensils, straws, condiments, and beverage cup lids  
31 available to customers using cylinders, bins, dispensers, containers,  
32 or other means of allowing for single-use utensils, straws,  
33 condiments, and beverage cup lids to be obtained at the affirmative  
34 volition of the customer. Utensils provided by a food service  
35 business for use by customers may not be bundled or packaged in  
36 plastic in such a way that a customer is unable to take only the type  
37 of single-use utensil or utensils desired without also taking a  
38 different type or types of utensil.

39 (3) (a) The department may issue a civil penalty of no less than  
40 \$150 per day and no more than \$2,000 per day to the owner or operator

1 of a food service business for each day single-use food service  
2 products are provided in violation of this section.

3 (b) The department must issue at least two notices of violation  
4 by certified mail prior to assessing a penalty.

5 (c) Penalties collected under this section must be deposited in  
6 the model toxics control operating account created in RCW  
7 70A.305.180.

8 (d) A food service business may appeal penalties assessed under  
9 this subsection to the pollution control hearings board within 30  
10 days of assessment.

11 (4) All food service businesses are encouraged, but not required,  
12 to take actions in addition to the requirements of this section that  
13 support a goal of reducing the use of and waste generated by single-  
14 use food service products.

15 (5) Beginning July 1, 2021, a city, town, county, or municipal  
16 corporation may not enact an ordinance to reduce pollution from  
17 single-use food service products by requiring affirmation that a  
18 customer wants single-use food service products from the customer of  
19 the food service business or other retail establishment.

20 NEW SECTION. **Sec. 12.** DEPARTMENT DUTIES. (1) The department may  
21 conduct audits and investigations for the purpose of ensuring  
22 compliance with sections 3 and 5 of this act based on the information  
23 reported under section 4 of this act.

24 (2) The department shall annually publish a list of registered  
25 producers of covered products and associated brand names, their  
26 compliance status, and other information the department deems  
27 appropriate on the department's website.

28 (3) To assist with the requirements specified under sections 10  
29 and 11 of this act, the department:

30 (a) Must prepare and post on its website information regarding  
31 the prohibitions on the sale and distribution of expanded polystyrene  
32 products as specified under section 10 of this act and optional  
33 serviceware under section 11 of this act;

34 (b) For education and outreach to help implement sections 10 and  
35 11 of this act, may develop culturally appropriate and translated  
36 educational materials and resources for the state's diverse ethnic  
37 populations from existing materials used by local jurisdictions and  
38 other states.

1 (4) The department may adopt rules as necessary to administer,  
2 implement, and enforce this chapter.

3 NEW SECTION. **Sec. 13.** RECYCLING ENHANCEMENT ACCOUNT. The  
4 recycling enhancement account is created in the custody of the state  
5 treasurer. All penalties collected by the department pursuant to  
6 sections 5 and 6 of this act must be deposited in the account. Only  
7 the director of the department or the director's designee may  
8 authorize expenditures from the account. The account is subject to  
9 the allotment procedures under chapter 43.88 RCW, but an  
10 appropriation is not required for expenditures. Expenditures from the  
11 account may be used by the department only for providing grants to  
12 local governments for the purpose of supporting local solid waste and  
13 financial assistance programs.

14 NEW SECTION. **Sec. 14.** RECYCLED CONTENT ACCOUNT. The recycled  
15 content account is created in the custody of the state treasurer. All  
16 receipts received by the department under section 3 of this act must  
17 be deposited in the account. Only the director of the department or  
18 the director's designee may authorize expenditures from the account.  
19 The account is subject to the allotment procedures under chapter  
20 43.88 RCW, but an appropriation is not required for expenditures.  
21 Expenditures from the account may be used by the department only for  
22 implementing, administering, and enforcing the requirements of  
23 sections 3 through 7 of this act.

24 NEW SECTION. **Sec. 15.** MARKET STUDY. (1) Subject to the  
25 availability of amounts appropriated for this specific purpose prior  
26 to January 1, 2028, the department shall contract with a research  
27 university or an independent third-party consultant to study the  
28 plastic resin markets for all of the following:

29 (a) Analyzing market conditions and opportunities in the state's  
30 recycling industry for meeting the minimum postconsumer recycled  
31 content requirements for covered products pursuant to sections 3 and  
32 4 of this act; and

33 (b) Determining the data needs and tracking opportunities to  
34 increase the transparency and support of a more effective, fact-based  
35 public understanding of the recycling industry.

1 (2) If funding is provided pursuant to subsection (1) of this  
2 section and the department undertakes the study, the study must be  
3 completed by May 1, 2029.

4 **Sec. 16.** RCW 43.21B.110 and 2020 c 138 s 11 and 2020 c 20 s 1035  
5 are each reenacted and amended to read as follows:

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

13 (a) Civil penalties imposed pursuant to RCW 18.104.155,  
14 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070,  
15 70A.515.060, sections 5, 6, 10, and 11 of this act, 76.09.170,  
16 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144,  
17 90.56.310, 90.56.330, and 90.64.102.

18 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,  
19 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070,  
20 section 3 of this act, 86.16.020, 88.46.070, 90.14.130, 90.46.250,  
21 90.48.120, and 90.56.330.

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

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

32 (e) Decisions of local health departments regarding the issuance  
33 and enforcement of permits to use or dispose of biosolids under RCW  
34 70A.226.090.

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

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

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

10 (i) Decisions of the department of natural resources, the  
11 department of fish and wildlife, and the department that are  
12 reviewable under chapter 76.09 RCW, and the department of natural  
13 resources' appeals of county, city, or town objections under RCW  
14 76.09.050(7).

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

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

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

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

28 (n) Decisions of the department of ecology that are appealable  
29 under section 3 of this act, to set recycled minimum postconsumer  
30 content for covered products.

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

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

35 (b) Hearings conducted by the department pursuant to RCW  
36 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,  
37 70A.15.3110, and 90.44.180.

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

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

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

6 **Sec. 17.** RCW 43.21B.300 and 2020 c 20 s 1038 are each amended to  
7 read as follows:

8 (1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160,  
9 70A.205.280, 70A.300.090, 70A.20.050, sections 5, 6, 10, and 11 of  
10 this act, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310,  
11 90.56.330, and 90.64.102 and chapter 70A.355 RCW shall be imposed by  
12 a notice in writing, either by certified mail with return receipt  
13 requested or by personal service, to the person incurring the penalty  
14 from the department or the local air authority, describing the  
15 violation with reasonable particularity. For penalties issued by  
16 local air authorities, within thirty days after the notice is  
17 received, the person incurring the penalty may apply in writing to  
18 the authority for the remission or mitigation of the penalty. Upon  
19 receipt of the application, the authority may remit or mitigate the  
20 penalty upon whatever terms the authority in its discretion deems  
21 proper. The authority may ascertain the facts regarding all such  
22 applications in such reasonable manner and under such rules as it may  
23 deem proper and shall remit or mitigate the penalty only upon a  
24 demonstration of extraordinary circumstances such as the presence of  
25 information or factors not considered in setting the original  
26 penalty.

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

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

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

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

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

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

15 (5) All penalties recovered shall be paid into the state treasury  
16 and credited to the general fund except those penalties imposed  
17 pursuant to RCW 18.104.155, which shall be credited to the  
18 reclamation account as provided in RCW 18.104.155(7), RCW  
19 70A.15.3160, the disposition of which shall be governed by that  
20 provision, RCW 70A.300.090, which shall be credited to the model  
21 toxics control operating account created in RCW 70A.305.180, RCW  
22 90.56.330, which shall be credited to the coastal protection fund  
23 created by RCW 90.48.390, and RCW 70A.355.070, which shall be  
24 credited to the underground storage tank account created by RCW  
25 70A.355.090.

26 **Sec. 18.** RCW 70A.220.020 and 2020 c 20 s 1228 are each amended  
27 to read as follows:

28 ~~((1) The provisions of this section and any rules adopted under  
29 this section shall be interpreted to conform with nationwide plastics  
30 industry standards.~~

31 ~~(2))~~ Except as provided in RCW 70A.220.030(2), after January 1,  
32 1992, no person may distribute, sell, or offer for sale in this state  
33 a plastic bottle or rigid plastic container unless the container is  
34 labeled with a code identifying the appropriate resin type used to  
35 produce the structure of the container. ~~((The code shall consist of a  
36 number placed within three triangulated arrows and letters placed  
37 below the triangle of arrows. The triangulated arrows shall be  
38 equilateral, formed by three arrows with the apex of each point of  
39 the triangle at the midpoint of each arrow, rounded with a short~~

1 ~~radius. The pointer (arrowhead) of each arrow shall be at the~~  
2 ~~midpoint of each side of the triangle with a short gap separating the~~  
3 ~~pointer from the base of the adjacent arrow. The triangle, formed by~~  
4 ~~the three arrows curved at their midpoints shall depict a clockwise~~  
5 ~~path around the code number.)~~) The numbers and letters used shall be  
6 as follows:

- 7 (a) 1.= PETE (polyethylene terephthalate)
- 8 (b) 2.= HDPE (high density polyethylene)
- 9 (c) 3.= V (vinyl) or PVC (polyvinyl chloride)
- 10 (d) 4.= LDPE (low density polyethylene)
- 11 (e) 5.= PP (polypropylene)
- 12 (f) 6.= PS (polystyrene)
- 13 (g) 7.= OTHER

14 NEW SECTION. **Sec. 19.** Sections 2 through 7 and 9 through 15 of  
15 this act constitute a new chapter in Title 70A RCW.

16 NEW SECTION. **Sec. 20.** If any provision of this act or its  
17 application to any person or circumstance is held invalid, the  
18 remainder of the act or the application of the provision to other  
19 persons or circumstances is not affected."

20 Correct the title.

**EFFECT: Postconsumer Recycled Content Requirements:**

Exempts fortified oral nutritional supplements and oral hygiene products from minimum postconsumer recycled (PCR) content requirements;

Consolidates provisions related to PCR requirements for plastic trash bags, household cleaning and personal care products that use plastic containers, and beverages that use plastic containers;

Defines or re-defines the terms "Producer", "Licensee", and "Covered Product";

Establishes a deadline of April 2022 for producers of all covered products to register with the Department of Ecology (Ecology), rather than only requiring producers of beverages and plastic trash bags to register by that date;

Establishes annual charges for producers of each category of covered products beginning in 2022, for purposes of covering Ecology's administrative costs for that category of covered products;

Establishes civil penalties for the failure to register or report required PCR information by producers of covered products and for failure to label plastic trash bags, in addition to the per-pound penalties for failure to meet minimum PCR requirements;

Specifies that Ecology may only adjust minimum PCR rates downwards for covered products that apply during the year following a PCR rate review;

Authorizes Ecology to adjust minimum PCR rates downwards for specific categories of covered products or types of containers within a category of covered product;

Authorizes Ecology to consider the implications of additional federal statutes and rules with respect to the technical feasibility of minimum PCR rates, when determining whether to adjust PCR rates downwards;

Requires Ecology to consider the technical feasibility of achieving minimum PCR requirements in all categories of covered products, when deciding whether to adjust the minimum PCR rate for a covered product;

Specifies that the amounts of virgin and PCR plastic used by a producer must be reported to Ecology as measured in pounds;

Delays until July 2024, the effective date of the state agency purchasing policy limiting purchases to products of plastic trash bag producers in compliance with PCR requirements.

Makes wine in 187 milliliter plastic beverage containers subject to the same timelines and minimum postconsumer recycled content requirements as dairy milk, as follows:

- (1) Beginning January 1, 2028, at a rate of 15 percent;
- (2) Beginning January 1, 2031, at a rate of 25 percent; and
- (3) Beginning January 1, 2036, at a rate of 50 percent.

**Expanded Polystyrene Restrictions:**

Delays the effective date of restrictions on expanded polystyrene food service containers and cold storage containers from June 1, 2023, to June 1, 2024.

**"Upon Request" Single-use Food Service Products:**

Authorizes all food service businesses to provide single-use utensils, straws, condiment packaging, and beverage cup lids to customers only after affirming that the customer wants the item, but without requiring food service businesses that provide food for on-site consumption to wait for a customer to request an item;

Allows certain large sports and music venues to provide beverage cup lids without customer affirmation;

Exempts health care facilities, health care providers, long-term care facilities, senior nutrition programs, at home delivered meals, services to individuals with developmental disabilities, and state psychiatric hospitals from requiring customer affirmation prior to providing a single-use food service product;

Applies restrictions on the provision of single-use food service products by the Department of Corrections and the Department of Children, Youth, and Families only to the extent operationally feasible and practicable;

Encourages all food services businesses to take actions in addition to these requirements to reduce single-use food service products.

**Stakeholder Advisory Committee:**

Changes the stakeholder advisory committee established to make recommendations related to recycled content requirements for plastic packaging by:

(1) Requiring the Departments of Ecology and Commerce to select an impartial third-party facilitator housed in the recycling development center to support the stakeholder advisory committee;

(2) Establishing qualifications for the facilitator, and duties for the facilitator that include providing information, providing staff and support to advisory committee meetings, and drafting reports and materials for advisory committee review;

(3) Shifting the duties for selecting the stakeholder advisory committee members from the President of the Senate and Speaker of the House of Representatives to the third-party facilitator;

(4) Eliminating the specific details that the stakeholder advisory committee must recommend, including the requirement that recommendations address definitions, registration of producers, and methods for determining responsible parties;

(5) Clarifying that the stakeholder advisory committee's charge encompasses types of plastic packaging that are not subject to minimum recycled content requirements established under the bill;

(6) Delaying the start of the stakeholder advisory committee until July 1, 2021, and the submission deadline for recommendations until December 1, 2021, and expiring the direction to form the stakeholder advisory committee in January 2022 rather than January 2023.

--- END ---