

HOUSE BILL REPORT

E2SSB 5397

As Reported by House Committee On:
Environment & Energy
Appropriations

Title: An act relating to the responsible management of plastic packaging.

Brief Description: Concerning the responsible management of plastic packaging.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Rolfes, Carlyle, Darneille, Saldaña, Hasegawa, Hunt and Kuderer).

Brief History:

Committee Activity:

Environment & Energy: 3/18/19, 3/26/19 [DPA];

Appropriations: 4/5/19, 4/8/19 [DPA(APP w/o ENVI)].

**Brief Summary of Engrossed Second Substitute Bill
(As Amended by Committee)**

- Requires the Department of Ecology to submit a report to the Legislature by October 2020 based on an independent, third-party evaluation and assessment of plastic packaging and of the management and disposal of plastic packaging.

HOUSE COMMITTEE ON ENVIRONMENT & ENERGY

Majority Report: Do pass as amended. Signed by 10 members: Representatives Fitzgibbon, Chair; Lekanoff, Vice Chair; Shea, Ranking Minority Member; Dye, Assistant Ranking Minority Member; Boehnke, Doglio, Fey, Mead, Peterson and Shewmake.

Staff: Jacob Lipson (786-7196).

Background:

Under the state's solid waste management laws, local governments are the primary government entities responsible for implementing state solid waste management requirements. The Department of Ecology (ECY) is responsible for working cooperatively

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with local governments as they develop their local solid waste management plans. County and city comprehensive solid waste management plans must contain certain elements, including a waste reduction and recycling element that includes waste reduction strategies, recycling strategies, and source separation strategies. Cities and counties determine which materials may be accepted for curbside recycling in each jurisdiction, and whether collected recyclable materials are collected in comingled containers or containers that separate materials based on type or source.

Facilities that manage, generate, store, or otherwise handle solid wastes are required to obtain a solid waste permit from the local jurisdictional health department, which are reviewed by the ECY. All transporters of recyclable materials must register with the ECY. The Utilities and Transportation Commission (UTC) regulates haulers transporting solid waste, garbage, and recyclables from residential sites. The certificate to transport garbage and recyclables sets the geographic areas in which the company is authorized to collect waste. Cities and towns have the authority to provide their own solid waste services or to contract for solid waste services. Solid waste services provided or contracted by cities and towns are not subject to UTC regulation. Materials collected for recycling are transported to material recovery facilities, which receive, compact, repackage or sort materials for the purposes of recycling.

Washington has established product stewardship programs for electronic products, pharmaceuticals, photovoltaic solar panels, and light bulbs that contain mercury (such as compact fluorescent lights). These product stewardship programs require producers to participate in a stewardship organization or program that is responsible for the collection, transport, and end-of-life management of covered products.

Summary of Amended Bill:

The Department of Ecology (ECY) must evaluate the amount and types of packaging produced in and sold into Washington and the management and disposal of plastic packaging. By October 31, 2020, the ECY must submit a report the Legislature that includes an assessment, compilation, or review of specified factors, including:

- the amounts and types of plastic packaging coming into Washington by category;
- the full cost of managing plastic packaging waste;
- the final disposition of plastic packaging;
- costs or savings to stakeholders in existing product stewardship programs, including specific plastic packaging management costs;
- infrastructure necessary to manage plastic packaging;
- contamination and sorting issues;
- existing organizations and databases that could be used to develop a plastic packaging management program;
- programs currently managing plastic packaging in Washington;
- existing studies on final disposition of plastic packaging and material recovery facility residual composition;
- businesses that use recycled plastic material as a feedstock or component of a company product; and

- industry and other efforts and innovations related to plastic packaging.

The ECY must contract with an independent, third-party consultant to complete the evaluation and assessment. The ECY must cite the sources of information that it relied upon in its report to the Legislature, and that the consultant relied upon in the evaluation and assessment. In developing recommendations to the Legislature, the ECY must ensure consistency with the federal Food, Drug, and Cosmetic Act. The ECY's report to the Legislature on the evaluation and assessment must include findings regarding the amount and types of plastic packaging and recommendations to meet plastic packaging reduction goals through industry-initiative or product stewardship programs, or both. The report must include goals of achieving by January 1, 2025:

- sustainable and realistic policies for plastic packaging that is reusable, recyclable, or compostable; and
- 20 percent postconsumer recycled content in plastic packaging.

The report must also include recommendations to reduce plastic packaging when possible, and provide options for legislative consideration to achieve plastic packaging reduction goals that could be established and implemented by January 1, 2022. The ECY must identify expected costs and benefits to private parties and to government agencies of the proposed options.

A variety of legislative findings are codified, including encouraging plastic packaging producers to consider the design and management of packaging to minimize environmental impacts.

The bill is null and void if specific funding is not appropriated in the operating budget by June 30, 2019, in an amount sufficient to fully carry out the activities required in the bill.

Amended Bill Compared to Engrossed Second Substitute Bill:

The amended bill makes the following changes to the engrossed second substitute bill:

- requires the Department of Ecology (ECY) to ensure consistency with the federal Food, Drug, and Cosmetic Act in developing the packaging recommendations to the Legislature that are due in 2020;
- amends the legislative findings to clarify that plastic packaging producers are encouraged, rather than required, to consider the environmental impacts of the design and management of their packaging;
- clarifies that the scope of the assessment of plastic packaging includes plastic packaging that is produced in Washington, in addition to plastic packaging that is imported into Washington;
- specifies that recommendations to meet the goals established for plastic packaging must include reducing plastic packaging through industry initiative or plastic packaging product stewardship, or both;
- expires the chapter created to require the study of plastic packaging on July 1, 2029;
- eliminates the goal of achieving 100 percent recyclable, reusable, or compostable packaging in all goods sold in Washington by 2025, and establishes a goal of achieving sustainable and realistic policies for plastic packaging by 2025;

- requires the ECY's assessment, evaluation, and report on plastic packaging to include a review and identification of businesses that use recycled plastic material as a feedstock or component of a company product;
 - requires the ECY, in the plastic packaging report due to the Legislature in 2020, to cite the sources of information that: (a) the ECY relied upon in the report; and (b) that the independent consultant relied upon in the plastic packaging assessment that forms the basis of the ECY's plastic packaging report;
 - requires the ECY to identify expected costs and benefits to government agencies and to private persons or businesses for options proposed in the 2020 report to the Legislature to meet plastic packaging reduction goals; and
 - makes the act null and void if specific funding for the act is not appropriated in the operating budget by June 30, 2019, in an amount sufficient to fully carry out the activities required by the act.
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Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony:

(In support) This bill will help local governments deal with challenges posed by large volumes and varieties of plastic packaging that are difficult to manage. When China stopped accepting plastics recycled in Washington, local governments needed to find local or domestic markets. Recycled plastics are now being sent to the landfill. Packaging manufacturers need to be involved in the solution to this problem, because local governments have no authority to control the design or content of the plastic packaging that local solid waste programs collect. Plastic packaging contaminates compost and causes problems for recycling facilities. Washington needs better information about plastic packaging before it decides on solutions to the proliferation of plastic. Solutions led by the industry or that require producer responsibility for the packaging that manufacturers create could be effective at addressing plastic packaging pollution.

(Opposed) None.

(Other) Certain types of packaging should be removed from the scope of plastic packaging addressed by this bill. The Department of Ecology cannot support this bill because of the fiscal impacts to the agency, but the bill will help find new opportunities to reduce plastic waste, and is complementary to other recycling bills being considered by the Legislature this year.

Persons Testifying: (In support) Senator Rolfes, prime sponsor; Heather Trim, Zero Waste Washington; Susan Fife-Farris, Seattle Public Utilities; Carl Schroeder, Association of Washington Cities; and Rick Hughes, San Juan County Council.

(Other) Laurie Davies, Department of Ecology; and Peter Godlewski, Association of Washington Business.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Appropriations and without amendment by Committee on Environment & Energy. Signed by 19 members: Representatives Ormsby, Chair; Bergquist, 2nd Vice Chair; Robinson, 1st Vice Chair; Cody, Dolan, Fitzgibbon, Hansen, Hudgins, Jinkins, Macri, Pettigrew, Pollet, Ryu, Senn, Springer, Stanford, Sullivan, Tarleton and Tharinger.

Minority Report: Do not pass. Signed by 13 members: Representatives Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier, Chandler, Dye, Hoff, Kraft, Mosbrucker, Schmick, Steele, Sutherland and Ybarra.

Staff: Dan Jones (786-7118).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Environment & Energy:

The Appropriations Committee amendments:

- establish a goal in the legislative findings of achieving 100 percent recyclable, reusable, or compostable packaging in all goods sold in Washington by 2025, rather than a goal of achieving sustainable and realistic policies for plastic packaging by 2025; and
- require any amount of funding to be provided by June 30, 2019, in the omnibus appropriations act to prevent the bill from becoming null and void, rather than an amount sufficient to fully carry out the activities required in the bill.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony:

(In support) The bill creates a good process to address the issue of plastic packaging in consumer products. Single-use plastic packaging is a serious and growing problem, and this

bill would inform efforts to reduce, reuse, and recycle these materials. The language from the Senate version of the bill stating a goal of 100 percent recyclable, reusable, or compostable packaging by 2025 should be reinstated.

(Opposed) None.

Persons Testifying: Peter Godlewski, Association of Washington Business; and Bruce Wishart, Zero Waste Washington.

Persons Signed In To Testify But Not Testifying: None.