S-0774.1

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SUBSTITUTE SENATE BILL 5174**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 67th Legislature 2021 Regular Session**

**By** Senate Environment, Energy & Technology (originally sponsored by Senators Wilson, J., Das, Hunt, Rolfes, Wagoner, and Wilson, C.)

AN ACT Relating to providing for the recycling of wind turbine blades; adding a new chapter to Title 70A RCW; and prescribing penalties.

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

NEW SECTION. **Sec.**  The legislature finds that a convenient, safe, and environmentally sound system for the recycling of wind turbine blades must be established. The legislature further finds that the responsibility for this system must be shared among all stakeholders, with manufacturers financing the takeback and recycling system.

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

(1) "Department" means the department of ecology.

(2) "Distributor" means a person who markets and sells wind turbine blades to retailers in Washington.

(3) "Installer" means a person who assembles, installs, and maintains wind turbine blades.

(4) "Manufacturer" means any person in business or no longer in business but having a successor in interest who, irrespective of the selling technique used, including by means of distance or remote sale:

(a) Manufactures or has manufactured a wind turbine blade under its own brand names for use or sale in or into Washington;

(b) Assembles or has assembled a wind turbine blade that uses parts manufactured by others for use or sale in or into Washington under the assembler's brand names;

(c) Resells or has resold in or into Washington under its own brand names a wind turbine blade produced by other suppliers, including retail establishments that sell wind turbine blades under their own brand names;

(d) Manufactures or has manufactured a cobranded wind turbine blade for use or sale in or into Washington that carries the name of both the manufacturer and a retailer;

(e) Imports or has imported a wind turbine blade into the United States that is used or sold in or into Washington. However, if the imported wind turbine blade is manufactured by any person with a presence in the United States meeting the criteria of manufacturer under (a) through (f) of this subsection, that person is the manufacturer;

(f) Sells at retail a wind turbine blade acquired from an importer that is the manufacturer and elects to register as the manufacturer for those products; or

(g) Elects to assume the responsibility and register in lieu of a manufacturer as defined under (a) through (f) of this subsection.

(5) "Retailer" means a person who offers wind turbine blades for retail sale in Washington through any means including, but not limited to, remote offerings such as sales outlets, catalogs, or internet sales.

(6) "Reuse" means any operation by which a wind turbine blade or a component of a wind turbine blade changes ownership and is used for the same purpose for which it was originally purchased or for a different beneficial purpose.

(7) "Stewardship plan" means the plan developed by a manufacturer's designated stewardship organization for a self-directed stewardship program.

(8) "Stewardship program" means the activities conducted by a stewardship organization to fulfill the requirements of this chapter and implement the activities described in the organization's stewardship plan.

(9) "Wind turbine blade" means a blade that is designed to be used as a component of a wind turbine for the purpose of generating electricity to be supplied to an electric utility as defined in RCW 19.29A.010.

NEW SECTION. **Sec.**  The department shall develop guidance for a wind turbine blade stewardship and takeback program to guide manufacturers and stewardship organizations in preparing and implementing a self-directed program to ensure the convenient, safe, and environmentally sound takeback and recycling of wind turbine blades and their components and materials. By January 1, 2022, the department shall establish a process to develop guidance for wind turbine blade stewardship plans by working with manufacturers, stewardship organizations, and other stakeholders on the content, review, and approval of stewardship plans. The department's process must be fully implemented and stewardship plan guidance completed by January 1, 2023.

NEW SECTION. **Sec.**  A manufacturer shall designate a stewardship organization to act as an agent on behalf of the manufacturer in operating and implementing the stewardship program required under this chapter. Manufacturers that have not designated a stewardship organization may not sell or supply wind turbine blades in or into Washington.

NEW SECTION. **Sec.**  (1) By January 1, 2023, each stewardship organization shall register with the department on behalf of its member manufacturers. The registration must include the following information:

(a) The name and contact information of the stewardship organization's member manufacturers; and

(b) Each manufacturer's brand names of wind turbine blades, including all brand names currently being sold in or into Washington, and all brand names for which the manufacturer has legal responsibility.

(2) Each stewardship organization must pay the annual fee and costs as determined by the department in section 9 of this act.

NEW SECTION. **Sec.**  (1) Each stewardship organization shall prepare and submit a stewardship plan to the department by July 1, 2023.

(2) A stewardship plan must, at a minimum:

(a) Describe how manufacturers will finance the takeback and recycling system and include an adequate funding mechanism to finance the costs of collection, management, and recycling of wind turbine blades that will be sold in or into Washington by the manufacturer with a mechanism that ensures that wind turbine blades can be delivered to takeback locations without cost to the last owner or holder;

(b) Accept all wind turbine blades sold in or into Washington after the effective date of this section;

(c) Provide for takeback of wind turbine blades at locations that are within the region of the state in which their wind turbine blades were used and are as convenient as reasonably practicable, and if no such location within the region of the state exists, include an explanation for the lack of such a location;

(d) Identify how relevant stakeholders, including installers, demolition firms, and recycling and treatment facilities, will receive information required in order for them to properly dismantle, transport, and treat the end-of-life wind turbine blades in a manner consistent with the objectives of this chapter;

(e) Establish performance goals, including a goal for the rate of reuse and recycling of collected wind turbine blades as a percentage of the total weight of wind turbine blades collected, which rate must be no less than 85 percent.

(3) A stewardship organization shall implement the stewardship plan.

(4) A stewardship organization may periodically amend its stewardship plan. The department shall approve the amendment if it meets the requirements for plan approval outlined in the department's guidance. When submitting proposed amendments, the stewardship organization shall include an explanation of why such an amendment is necessary.

(5) The department shall approve a stewardship plan if it determines the plan addresses each element outlined in the department's guidance.

(6) Each stewardship organization shall implement its approved plan within six months of the department's approval of the plan.

NEW SECTION. **Sec.**  (1) Beginning July 1, 2024, and by July 1st in each subsequent year, a manufacturer's designated stewardship organization, shall provide to the department a report for the previous calendar year that documents implementation of the plan and assesses achievement of the performance goals established in this chapter.

(2) The report may include any recommendations to the department or the legislature on modifications to the program that would enhance the effectiveness of the program, including management of program costs and mitigation of environmental impacts of wind turbine blades.

(3) The stewardship organization shall post the report on a publicly accessible website.

NEW SECTION. **Sec.**  (1) Beginning July 1, 2023, no manufacturer, distributor, retailer, or installer may sell, offer for sale, or install a wind turbine blade in or into Washington unless the manufacturer of the wind turbine blade is included in a department approved stewardship plan.

(2) The department shall send a written warning to a manufacturer that is not participating in a stewardship plan. The written warning must inform the manufacturer that it must participate in a plan within 30 days of the notice. The department may assess a penalty of up to $10,000 upon a manufacturer for each sale that occurs in or into Washington of a wind turbine blade for which a stewardship plan has not been submitted by the manufacturer's designated stewardship organization and approved by the department after the initial written warning. A manufacturer may appeal a penalty issued under this section to the superior court of Thurston county within 180 days of receipt of the notice.

(3) The department shall send a written warning to a distributor, retailer, or installer that sells or installs a wind turbine blade made by a manufacturer that is not participating in a plan. The written warning must inform the distributor, retailer, or installer that it may no longer sell or install a wind turbine blade if a stewardship plan for that brand has not been submitted by the manufacturer's designated stewardship organization and approved by the department within 30 days of the notice.

NEW SECTION. **Sec.**  By April 1, 2022, and every April 1st thereafter, the department shall determine administrative costs incurred by the department for program implementation activities, including stewardship plan review and approval, enforcement, and any rule making, that must be recovered by charging every stewardship organization an annual fee calculated by dividing department administrative costs by the stewardship organization manufacturer's pro rata share of the Washington wind turbine blade sales in the preceding three calendar years, based on best available information. Costs incurred by the department from the effective date of this section until April 1, 2022, must be included in the first determination. The sole purpose of assessing the fees authorized in this section is to predictably and adequately fund the department's costs of administering the wind turbine blade recycling program. The department may require the stewardship organization to pay for costs the department incurred in the prior fiscal year or for estimated costs for the coming fiscal year.

NEW SECTION. **Sec.**  The wind turbine blade recycling account is created in the custody of the state treasurer. All receipts of fees collected from stewardship organizations under this chapter must be deposited in the account. Expenditures from the account may be used only for administering this chapter. Only the director of the department or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. Funds in the account may not be diverted for any purpose or activity other than those specified in this section.

NEW SECTION. **Sec.**  In lieu of preparing a stewardship plan and as provided under this chapter, a manufacturer may participate in a national program for the convenient, safe, and environmentally sound takeback and recycling of wind turbine blades and their components and materials, if substantially equivalent to the intent of Washington's program. The department may determine substantial equivalence if it determines that the national program adequately addresses and fulfills each of the elements of a stewardship plan outlined in this chapter and includes an enforcement mechanism reasonably calculated to ensure a manufacturer's compliance with the national program. Upon issuing a determination of substantial equivalence, the department shall notify affected stakeholders including the manufacturer. If the national program is discontinued or the department determines the national program is no longer substantially equivalent to the state program in Washington, the department shall notify the manufacturer and the manufacturer shall provide a stewardship plan as described in this chapter to the department for approval within 30 days of notification.

NEW SECTION. **Sec.**  The department may adopt rules as necessary for the purpose of implementing, administering, and enforcing this chapter.

NEW SECTION. **Sec.**  Sections 1 through 12 of this act constitute a new chapter in Title 70A RCW.

**--- END ---**