

2SHB 1131 - H AMD 194

By Representative Dye

NOT CONSIDERED 01/02/2024

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

3 **"PART 1**

4 **TRUTH IN LABELING**

5 NEW SECTION. **Sec. 101.** TRUTH IN LABELING. (1) Beginning January
6 1, 2027, a producer may not offer for sale, sell, or distribute in or
7 into Washington, including by means of remote sale, any covered
8 product that makes a deceptive or misleading claim about its
9 recyclability.

10 (a) A product or packaging that displays a chasing arrows symbol,
11 a chasing arrows symbol surrounding a resin identification code, or
12 any other symbol or statement indicating that it is recyclable or
13 otherwise directing the consumer to recycle the product or packaging,
14 is deemed to be a deceptive or misleading claim under this section
15 unless the product or packaging is considered recyclable in the state
16 under section 103 of this act and is of a material type and form that
17 routinely becomes feedstock used in the production of new products or
18 packaging or is exempt under (b) of this subsection.

19 (b) (a) of this subsection does not apply to products or
20 packaging:

21 (i) For which a symbol or statement described in (a) of this
22 subsection is required by another state or by a federal law or agency
23 in the United States at the time that the claim is made;

24 (ii) For which a symbol or statement described in (a) of this
25 subsection is part of a widely adopted and standardized third-party
26 labeling system;

27 (iii) For which a chasing arrows symbol is used in combination
28 with a clearly visible line placed at a 45-degree angle over the
29 chasing arrows symbol to convey that an item is not recyclable;

30 (iv) Manufactured up to 18 months after the date the department
31 publishes the first material characterization study required under

1 section 102 of this act, or before January 1, 2027, whichever is
2 later; or

3 (v) Any product or packaging manufactured up to 18 months after
4 the date the department updates the material characterization study
5 under section 102 of this act, if the product or packaging satisfied
6 or, for a new product or packaging, would have satisfied, the
7 requirements to be considered recyclable in the state under section
8 103 of this act before the publication of the updated study.

9 (c) For a product or packaging that is not considered to be
10 recyclable in the state under section 103 of this act, all the
11 following apply:

12 (i) Displaying a chasing arrows symbol or any other statement
13 indicating the product is recyclable directly on the product is
14 deemed to be deceptive or misleading under this section;

15 (ii) If a product or packaging has multiple material types, a
16 chasing arrows symbol or statement indicating recyclability may be
17 displayed on the external packaging that is considered to be
18 recyclable in the state under section 103 of this act if the chasing
19 arrows symbol or statement makes clear in the same or greater font,
20 font size, or symbol size which other components of the product or
21 packaging are not recyclable; and

22 (iii) Displaying a chasing arrows symbol or any other statement
23 indicating recyclability on packaging containing a consumable product
24 shall, for purposes of this section, be deemed to refer only to the
25 packaging.

26 (2) At such time as an enforceable federal statutory or
27 regulatory standard is implemented for labeling packaging related to
28 recyclability, within 180 days the department shall review criteria
29 under this chapter with federal standards or requirements. Upon
30 completing its review, the department may adopt the federal criteria
31 in lieu of the requirements of this section.

32 (3) Beginning August 1, 2023, a city, town, or county may not
33 enact an ordinance restricting the distribution or sale of covered
34 products due to displaying a chasing arrows symbol, a chasing arrows
35 symbol surrounding a resin identification code, or any other symbol
36 or statement indicating that it is recyclable if the covered product
37 is, at the time that the claim is made:

38 (a) Designated for collection in a producer responsibility
39 organization plan approved by the department;

1 (b) Required to display the symbol or statement by another state
2 or by a federal law or agency;

3 (c) Part of a widely adopted and standardized third-party
4 labeling system; or

5 (d) Using a chasing arrows symbol in combination with a clearly
6 visible line placed at a 45-degree angle over the chasing arrows
7 symbol to convey that an item is not recyclable.

8 (4) The definitions in this subsection apply throughout this
9 section unless the context clearly requires otherwise.

10 (a)(i) "Chasing arrows symbol" means an equilateral triangle,
11 formed by three arrows curved at their midpoints, depicting a
12 clockwise path, with a short gap separating the apex of each arrow
13 from the base of the adjacent arrow.

14 (ii) "Chasing arrows symbol" also includes variants of that
15 symbol that are likely to be interpreted by a consumer as an
16 implication of recyclability including, but not limited to, one or
17 more arrows arranged in a circular pattern or around a globe.

18 (b) "Consumable product" means a commodity that is intended to be
19 used and not disposed of.

20 (c) "Packaging" is to be broadly construed and includes secondary
21 and tertiary packaging and may be comprised of any material type.

22 NEW SECTION. **Sec. 102.** MATERIAL CHARACTERIZATION STUDY. (1) By
23 January 1, 2026, the department shall produce a material
24 characterization study to provide information to the public
25 sufficient for evaluating whether a product or packaging is
26 recyclable in the state according to the criteria set forth in
27 section 103 of this act and are of material types and forms that
28 routinely become feedstock used in the production of new products or
29 packaging.

30 (a) The department shall conduct and publish on its website a
31 characterization study of material types and forms that are
32 collected, sorted, sold, or transferred by facilities that process
33 recyclable materials from curbside recycling programs and other solid
34 waste facilities deemed appropriate by the department for inclusion
35 in the study.

36 (b) The material characterization study must:

37 (i) Use data from statistically valid and representative samples
38 of materials collected from curbside recycling programs in the state
39 analyzed using industry standard methodologies;

1 (ii) Identify what material types and forms are actively sorted
2 for recycling, and not considered contaminants, by included
3 operations or facilities;

4 (iii) Identify what material types and forms are not sorted for
5 recycling, and are considered contaminants, by included operations or
6 facilities; and

7 (iv) Identify how the material collected or processed by the
8 operations and facilities was collected.

9 (2) The department shall update the material characterization
10 study required under this section no less often than every five
11 years, with the first update being issued by the department in 2029.

12 (3) For each material characterization study conducted under this
13 section, the department shall publish on its website the preliminary
14 findings of the study and conduct a public meeting to present the
15 preliminary findings and receive public comments. The public meeting
16 must occur at least 30 days after the department publishes the
17 preliminary findings. After receiving and considering public
18 comments, and within 90 days of the public meeting, the department
19 shall finalize and publish on its website the findings of the study.

20 (4) The department may publish additional information that was
21 not available at the time of the most recent periodic material
22 characterization study regarding the appropriate characterization of
23 material types and forms.

24 NEW SECTION. **Sec. 103.** RECYCLABILITY DETERMINATIONS. (1)(a) A
25 product or packaging is considered recyclable in the state if, based
26 on information published by the department under section 102 of this
27 act, the product or packaging is of a material type and form that
28 meets both of the following requirements:

29 (i) The material type and form is collected for recycling by
30 recycling programs for jurisdictions that collectively encompass at
31 least 60 percent of the population of the state; and

32 (ii) The material type and form are sorted into defined streams
33 for recycling processes by large volume transfer or processing
34 facilities, as provided in chapter 70A.205 RCW, that process
35 materials and collectively serve at least 60 percent of recycling
36 programs statewide, with the defined streams sent to and reclaimed at
37 a reclaiming facility consistent with the requirements of chapter
38 70A.205 RCW.

1 (b) The department may adopt rules modifying the requirement to
2 encompass transfer or processing facilities other than large volume
3 transfer or processing facilities as the department deems appropriate
4 for achieving the purposes of this section.

5 (2) A product or packaging is not considered recyclable in the
6 state unless the product or packaging meets all the following
7 criteria, as applicable:

8 (a) For plastic packaging, the plastic packaging is designed to
9 not include any components, inks, adhesives, or labels that prevent
10 the recyclability of the packaging according to the association of
11 plastic recyclers design guide published by the association of
12 plastic recyclers; and

13 (b) For plastic products and nonplastic products and packaging,
14 the product or packaging is designed to ensure recyclability and does
15 not include any components, inks, adhesives, or labels that prevent
16 the recyclability of the product or packaging.

17 (3) A product or packaging is recyclable in the state if the
18 product or packaging has a demonstrated recycling rate of at least 75
19 percent, meaning that not less than 75 percent of the product or
20 packaging sorted and aggregated in the state is reprocessed into new
21 products or packaging.

22 (4) Before January 1, 2032, a product or packaging not collected
23 under a curbside collection program is recyclable in the state if the
24 noncurbside collection program recovers at least 60 percent of the
25 product or packaging in the program and the material has sufficient
26 commercial value to be marketed for recycling and be transported at
27 the end of its useful life to a transfer, processing, or recycling
28 facility to be sorted and aggregated into defined streams by material
29 type and form.

30 (5) After January 1, 2032, a product or packaging not collected
31 under a curbside collection program is recyclable in the state if the
32 noncurbside collection program recovers at least 75 percent of the
33 product or packaging in the program and the material has sufficient
34 commercial value to be marketed for recycling and be transported at
35 the end of its useful life to a transfer, processing, or recycling
36 facility to be sorted and aggregated into defined streams by material
37 type and form.

38 (6) A product or packaging is recyclable in the state if the
39 product or packaging is part of, and in compliance with, a program
40 established under state or federal law on or after January 1, 2025,

1 governing the recyclability or disposal of that product or packaging
2 if the director of the department determines that the product or
3 packaging will not increase contamination of curbside recycling or
4 deceive consumers as to the recyclability of the product or
5 packaging.

6 (7) The information published by the department under section 102
7 of this act does not limit the discretion of a local government under
8 existing law to decide whether, and to what extent, a material type
9 or form is accepted by a local recycling program.

10 **PART 2**
11 **ESTABLISHING POSTCONSUMER RECYCLED CONTENT**
12 **REQUIREMENTS**

13 NEW SECTION. **Sec. 201.** ROLL CARTS. (1) Beginning January 1,
14 2024, a manufacturer or person may only sell, offer for sale, or
15 distribute for use in Washington plastic collection bins made from at
16 least 25 percent postconsumer recycled content, including at least 10
17 percent derived from curbside recycling programs. However, a person
18 providing solid waste collection services may distribute for use in
19 Washington any plastic collection bins that were in use or in its
20 inventory in Washington state prior to January 1, 2024, until the end
21 of such a bin's useful life.

22 (2) A person with an existing municipal contract for plastic
23 collection bins that was in place prior to August 1, 2023, is exempt
24 from this section until the expiration or renewal date of the
25 contract. A new or renewed contract whose terms take effect after
26 August 1, 2023, must be consistent with the requirements of this
27 section. Exempt persons are encouraged to meet the requirements of
28 this section as collection bins are replaced under existing
29 contracts.

30 (3) Manufacturers of plastic collection bins, including persons
31 that sell, offer for sale, distribute, or provide collection bins in
32 Washington must provide written evidence or certification, upon
33 request, to the department or any municipality, retailer, stewardship
34 organization, solid waste collection company, or other purchaser of
35 collection bins showing that their collection bins meet the
36 requirements of this section.

37 (4) For the purposes of this section, "plastic collection bins"
38 include plastic bins, cans, carts, toters, roll carts, or other

1 receptacles used to collect recyclables, compostable materials, or
2 garbage used by solid waste collection services.

3 NEW SECTION. **Sec. 202.** DE MINIMIS PRODUCERS. (1) For purposes
4 of determining whether a producer is a de minimis producer, the
5 weight and revenue definitional thresholds must be calculated at the
6 level of the entity associated with the covered product.

7 (2) The exemptions under this chapter for de minimis producers do
8 not apply to an entity that has agreed to accept responsibility for
9 compliance with the requirements of this chapter for a covered
10 product on the behalf of another producer.

11 (3)(a) De minimis producers are not required to meet annual
12 registration, reporting, postconsumer recycled content, or fee
13 requirements of covered products under this chapter.

14 (b) De minimis producers must annually notify the department, in
15 a form and manner specified by the department, to demonstrate that
16 the producer is a de minimis producer.

17 (4) The department may require that a producer submit information
18 necessary to verify whether a producer qualifies for de minimis
19 status, including:

20 (a) Annual global gross revenue dollar amount less than or equal
21 to \$5,000,000;

22 (b) Annual total resin weight less than or equal to one ton; and

23 (c) Any additional information requested by the department.

24 NEW SECTION. **Sec. 203.** POSTCONSUMER RECYCLED CONTENT
25 REQUIREMENTS FOR PLASTIC BEVERAGE CONTAINERS. A producer of a
26 beverage in a plastic beverage container must meet the following
27 annual minimum postconsumer recycled content percentage on average
28 for the total quantity of plastic beverage containers, by weight,
29 that are sold, offered for sale, or distributed in or into Washington
30 by the producer effective:

31 (1) For beverages except wine in 187 milliliter plastic beverage
32 containers and dairy milk:

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

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

37 (c) On and after January 1, 2031: No less than 50 percent
38 postconsumer recycled content plastic by weight;

1 (2) For wine in 187 milliliter plastic beverage containers and
2 dairy milk:

3 (a) January 1, 2028, through December 31, 2030: No less than 15
4 percent postconsumer recycled content plastic by weight;

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

7 (c) On and after January 1, 2036: No less than 50 percent
8 postconsumer recycled content plastic by weight.

9 NEW SECTION. **Sec. 204.** POSTCONSUMER RECYCLED CONTENT
10 REQUIREMENTS FOR HOUSEHOLD CLEANING PRODUCTS AND PERSONAL CARE
11 PRODUCTS. A producer of household cleaning products in plastic
12 containers or a producer of personal care products in plastic
13 containers must meet the following annual minimum postconsumer
14 recycled content percentage on average for the total quantity of
15 plastic containers, by weight, that are sold, offered for sale, or
16 distributed in or into Washington by the producer effective:

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

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

21 (3) On and after January 1, 2031: No less than 50 percent
22 postconsumer recycled content plastic by weight.

23 NEW SECTION. **Sec. 205.** POSTCONSUMER RECYCLED CONTENT FOR
24 PLASTIC TRASH BAGS. A producer of plastic trash bags must meet the
25 following annual minimum postconsumer recycled content percentage on
26 average for the total quantity of plastic trash bags, by weight, that
27 are sold, offered for sale, or distributed in or into Washington by
28 the producer effective:

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

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

33 (3) On and after January 1, 2027: No less than 20 percent
34 postconsumer recycled content plastic by weight.

35 NEW SECTION. **Sec. 206.** POSTCONSUMER RECYCLED CONTENT FOR
36 PLASTIC TUBS USED FOR FOOD PRODUCTS. A producer of plastic tubs used
37 for food products must meet the following annual minimum postconsumer

1 recycled content percentage on average for the total quantity of
2 plastic tubs used for food products, by weight, that are sold,
3 offered for sale, or distributed in or into Washington by the
4 producer effective:

5 (1) January 1, 2026, through December 31, 2030: No less than 10
6 percent postconsumer recycled content plastic by weight; and

7 (2) On and after January 1, 2031: No less than 30 percent
8 postconsumer recycled content plastic by weight.

9 NEW SECTION. **Sec. 207.** POSTCONSUMER RECYCLED CONTENT FOR
10 SINGLE-USE PLASTIC CUPS. A producer of single-use plastic cups must
11 meet the following annual minimum postconsumer recycled content
12 percentage on average for the total quantity of single-use plastic
13 cups, by weight, that are sold, offered for sale, or distributed in
14 or into Washington by the producer effective:

15 (1) For polypropylene single-use plastic cups:

16 (a) January 1, 2029, through December 31, 2030: No less than 15
17 percent postconsumer recycled content plastic by weight; and

18 (b) On and after January 1, 2031: No less than 25 percent
19 postconsumer recycled content plastic by weight;

20 (2) For polyethylene terephthalate, polystyrene, and other types
21 of single-use plastic cups:

22 (a) January 1, 2029, through December 31, 2030: No less than 20
23 percent postconsumer recycled content plastic by weight; and

24 (b) On and after January 1, 2031: No less than 30 percent
25 postconsumer recycled content plastic by weight.

26 NEW SECTION. **Sec. 208.** POSTCONSUMER RECYCLED CONTENT FOR
27 THERMOFORM PLASTIC CONTAINERS. A producer of a thermoform plastic
28 container must meet the following annual minimum postconsumer
29 recycled content percentage on average for the total quantity of
30 thermoform plastic containers, by weight, that are sold, offered for
31 sale, or distributed in or into Washington by the producer effective:

32 (1) For packaging for consumable goods:

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

35 (b) On and after January 1, 2036: No less than 30 percent
36 postconsumer recycled content plastic by weight;

1 (2) (a) Except as provided in (b) of this subsection, for
2 packaging used for durable goods: On and after January 1, 2036, no
3 less than 30 percent postconsumer recycled content plastic by weight;

4 (b) Packaging designed to accompany a durable good where that
5 durable good model is designed prior to the effective date of the
6 requirement in (a) of this subsection is exempt.

7 NEW SECTION. **Sec. 209.** POSTCONSUMER RECYCLED CONTENT FOR
8 PLASTIC PLANT POTS AND TRAYS. A producer of plastic plant pots or
9 trays must meet the following annual minimum postconsumer recycled
10 content percentage on average for the total quantity of covered
11 products, by weight, that are sold, offered for sale, or distributed
12 in or into Washington by the producer effective:

13 (1) January 1, 2026, through December 31, 2030: No less than 30
14 percent postconsumer recycled content plastic by weight; and

15 (2) On and after January 1, 2031: No less than 80 percent
16 postconsumer recycled content plastic by weight.

17 **PART 3**

18 **AMENDMENTS TO EXISTING POSTCONSUMER RECYCLED**
19 **CONTENT REQUIREMENTS**

20 **Sec. 301.** RCW 70A.245.010 and 2021 c 313 s 2 are each amended to
21 read as follows:

22 The definitions in this section apply throughout this chapter
23 unless the context clearly requires otherwise.

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

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

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

30 ~~((c))~~ (iii) Wine;

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

32 ~~((e))~~ (v) Mineral water, soda water, and similar carbonated
33 soft drinks; ~~(and~~

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

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

1 (b) Beverage does not include infant formula as defined in 21
2 U.S.C. Sec. 321(z), medical food as defined in 21 U.S.C. Sec.
3 360ee(b)(3), or fortified oral nutritional supplements used for
4 persons who require supplemental or sole source nutritional needs due
5 to special dietary needs directly related to cancer, chronic kidney
6 disease, diabetes, or other medical conditions as determined by the
7 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) (a) "Covered product" means an item in one of the following
16 categories subject to minimum postconsumer recycled content
17 requirements:

18 (i) Plastic trash bags;

19 (ii) Household cleaning ~~((and personal care products that use~~
20 ~~plastic household cleaning and personal care product containers; and~~
21 ~~(iii) Beverages that use plastic beverage containers))~~ products
22 that use plastic household cleaning product containers;

23 (iii) Personal care products that use personal care product
24 containers;

25 (iv) Beverages that use plastic beverage containers;

26 (v) Plastic tubs used for food products;

27 (vi) Thermoform plastic containers;

28 (vii) Single-use plastic cups; and

29 (ix) Plastic pots and trays.

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

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

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

37 (7) "Expanded polystyrene" means blown polystyrene and expanded
38 and extruded foams that are thermoplastic petrochemical materials
39 utilizing a styrene monomer and processed by any number of techniques
40 including, but not limited to, fusion of polymer spheres (expandable

1 bead polystyrene), injection molding, foam molding, and extrusion-
2 blow molding (extruded foam polystyrene).

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

9 (9) "Food service product" means a product intended for one-time
10 use and used for food or drink offered for sale or use. Food service
11 products include, but are not limited to, containers, plates, bowls,
12 cups, lids, beverage containers, meat trays, deli rounds, utensils,
13 sachets, straws, condiment packaging, clamshells and other hinged or
14 lidded containers, wrap, and portion cups.

15 (10) ~~"Household cleaning ((and personal care product" means any~~
16 ~~of the following:~~

17 ~~(a) Laundry detergents, softeners, and stain removers;~~

18 ~~(b) Household cleaning products;~~

19 ~~(c) Liquid soap;~~

20 ~~(d) Shampoo, conditioner, styling sprays and gels, and other hair~~
21 ~~care products; or~~

22 ~~(e) Lotion, moisturizer, facial toner, and other skin care))~~
23 products" means products labeled, marketed, or otherwise indicating
24 that the purpose of the product is to clean, freshen, or remove
25 unwanted substances, such as dirt, stains, and other impurities from
26 objects, interior or exterior structures, vehicles, possessions, and
27 environments associated with a household. These items include:

28 (a) Liquid soaps, laundry soaps, detergents, softeners, surface
29 polishes, and stain removers;

30 (b) Textile cleaners, carpet and pet cleaners, and treatments; or

31 (c) Other products used to clean or freshen areas associated with
32 a household.

33 (11) "Household cleaning and personal care product manufacturing
34 industry" means an association that represents companies that
35 manufacture household cleaning products and personal care products.

36 (12) "Licensee" means a manufacturer of a covered product or
37 entity who licenses a brand and manufactures a covered product under
38 that brand.

39 (13) "Oral nutritional supplement" means a manufactured liquid,
40 powder capable of being reconstituted, or solid product that contains

1 a combination of carbohydrates, proteins, fats, fiber, vitamins, and
2 minerals intended to supplement a portion of a patient's nutrition
3 intake.

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

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

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

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

16 (d) ~~((Liners, caps, corks, closures, labels, and other items
17 added externally or internally but otherwise separate from the
18 structure of the bottle or container))~~ Other covered products subject
19 to minimum postconsumer recycled content requirements.

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

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

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

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

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

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

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

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

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

1 (iii) Other covered products subject to minimum postconsumer
2 recycled content requirements.

3 (16) "Plastic trash bag" means a bag that is made of
4 noncompostable plastic, is at least 0.70 mils thick, and is designed
5 and manufactured for use as a container to hold, store, or transport
6 materials to be discarded or recycled, and includes, but is not
7 limited to, a garbage bag, recycling bag, lawn or leaf bag, can liner
8 bag, kitchen bag, or compactor bag. "Plastic trash bag" does not
9 include any compostable bags meeting the requirements of chapter
10 70A.455 RCW.

11 (17) "Plastic trash bag manufacturing industry" means an
12 association that represents companies that manufacture plastic trash
13 bags.

14 (18) "Postconsumer recycled content" means the content of a
15 covered product made of recycled materials derived specifically from
16 recycled material generated by households or by commercial,
17 industrial, and institutional facilities in their role as end users
18 of a product that can no longer be used for its intended purpose.
19 "Postconsumer recycled content" includes returns of material from the
20 distribution chain.

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

25 (i) (A) If the covered product is sold under the manufacturer's
26 own brand or lacks identification of a brand, the producer is the
27 person who manufactures the covered product;

28 (B) If the covered product is sold under the brand of a retail
29 establishment, the producer is the retail establishment;

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

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

1 (b) "Producer" does not include:

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

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

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

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

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

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

17 (b) "Retail establishment" includes, but is not limited to, food
18 service businesses, grocery stores, department stores, hardware
19 stores, home delivery services, pharmacies, liquor stores,
20 restaurants, catering trucks, convenience stores, or other retail
21 stores or vendors, including temporary stores or vendors at farmers
22 markets, street fairs, and festivals.

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

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

29 (22) "Brand" means a name, symbol, word, logo, or mark that
30 identifies a product and attributes the product and its components,
31 including packaging, to the brand owner of the product as the
32 producer.

33 (23) "De minimis producer" means an entity that annually sells,
34 offers for sale, distributes, or imports:

35 (a) In or into the country for sale in Washington state less than
36 one ton of covered products; and

37 (b) A global gross revenue of less than \$5,000,000 for the most
38 recent fiscal year of the organization.

39 (24) "Durable good" means a product that provides utility over an
40 extended period of time.

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

7 (26) "Household" means all of the people who occupy a residential
8 property regardless of their relationship to one another.

9 (27) "Personal care product" means a product intended or marketed
10 for use to be rubbed, poured, sprinkled, or sprayed on, introduced
11 into, or otherwise applied to the human body for cleansing,
12 beautifying, promoting attractiveness, or altering the appearance
13 including:

14 (a) Shampoo, conditioner, styling sprays and gels, and other hair
15 care products;

16 (b) Lotion, moisturizer, facial toner, and other skin care
17 products;

18 (c) Liquid soap and other body care products; or

19 (d) Other products used to maintain, improve, or enhance personal
20 care or appearance.

21 (28) "Plant pot or tray" means a single-use or durable container,
22 material transport tray, or water collection tray used to grow,
23 contain, cultivate, display, or transport plants or soil.

24 (29) (a) "Plastic tub" means a wide mouth, rigid container used to
25 package consumable or durable goods that reach consumers, with a
26 maximum capacity of 50 ounces, that is:

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

28 (ii) Comprised solely of one or multiple plastic resins and
29 designed to contain a product; and

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

32 (b) "Plastic tub" does not include:

33 (i) Household cleaning and personal care products;

34 (ii) Plastic containers that are or are used for medical devices,
35 medical products that are required to be sterile, nonprescription and
36 prescription drugs, or dietary supplements as defined in RCW
37 82.08.0293;

38 (iii) Thermoform plastic containers;

39 (iv) Single-use plastic cups; and

1 (v) Other covered products subject to minimum postconsumer
2 recycled content requirements.

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

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

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

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

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

20 (iii) Unfilled containers that are sold directly;

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

23 (v) Two-piece unhinged containers;

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

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

27 (b) "Thermoform plastic container" does not include:

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

29 (ii) Plastic tubs;

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

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

34 (v) A refillable thermoform plastic container that ordinarily
35 would be returned to the manufacturer to be refilled and resold;

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

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

1 (viii) Thermoform plastic containers accompanying a durable good
2 when the durable good model, and the associated packaging, was
3 designed prior to January 1, 2025.

4 **Sec. 302.** RCW 70A.245.020 and 2021 c 313 s 3 are each amended to
5 read as follows:

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

8 (i) Beverages other than wine in 187 milliliter plastic beverage
9 containers and dairy milk in plastic beverage containers must meet
10 minimum postconsumer recycled content requirements established under
11 ~~((subsection (4) of this))~~ section 203 of this act; and

12 (ii) Plastic trash bags must meet minimum postconsumer recycled
13 content requirements established under ~~((subsection (6) of this))~~
14 section 205 of this act.

15 (b) Beginning January 1, 2025, producers that offer for sale,
16 sell, or distribute in or into Washington household cleaning ~~((and))~~
17 products or personal care products in plastic household cleaning
18 product containers and personal care product containers must meet
19 minimum postconsumer recycled content as required under ~~((subsection~~
20 ~~(5) of this))~~ section 204 of this act.

21 (c) Beginning January 1, 2028, producers that offer for sale,
22 sell, or distribute in or into Washington wine in 187 milliliter
23 plastic beverage containers or dairy milk in plastic beverage
24 containers must meet minimum postconsumer recycled content as
25 required under ~~((subsection (4) of this))~~ section 203 of this act.

26 (d) Beginning January 1, 2026, producers that offer for sale,
27 sell, or distribute in or into Washington plastic tubs used for food
28 products must meet minimum postconsumer recycled content requirements
29 established under section 206 of this act.

30 (e) Beginning January 1, 2029, producers that offer for sale,
31 sell, or distribute in or into Washington single-use plastic cups
32 must meet minimum postconsumer recycled content requirements
33 established under section 207 of this act.

34 (f) Beginning January 1, 2031, producers that offer for sale,
35 sell, or distribute in or into Washington thermoform plastic
36 containers except those containing durable goods must meet minimum
37 postconsumer recycled content requirements established under section
38 208 of this act.

1 (g) Beginning January 1, 2036, producers that offer for sale,
2 sell, or distribute in or into Washington durable goods in thermoform
3 plastic containers must meet minimum postconsumer recycled content
4 requirements established under section 208 of this act.

5 (h) Beginning January 1, 2026, producers that offer for sale,
6 sell, or distribute in or into Washington plastic nursery pots must
7 meet minimum postconsumer recycled content requirements established
8 under section 209 of this act.

9 (2) (a) On or before April 1, 2022, and annually thereafter, a
10 producer that offers for sale, sells, or distributes in or into
11 Washington covered products must register with the department
12 individually or through a third-party representative registering on
13 behalf of a group of producers. A producer of products newly added to
14 the list of covered products under this act must register with the
15 department individually or through a third-party representative
16 registering on behalf of a group of producers on or before April 1,
17 2024.

18 (b) The registration information submitted to the department
19 under this section must include a list of the producers of covered
20 products and the brand names of the covered products represented in
21 the registration submittal. ~~Beginning ((April 1, 2024, for plastic~~
22 ~~trash bags and plastic beverage containers other than wine in 187~~
23 ~~milliliter plastic beverage containers and dairy milk in plastic~~
24 ~~beverage containers, April 1, 2026, for plastic household and~~
25 ~~personal care product containers, and April 1, 2029, for wine in 187~~
26 ~~milliliter plastic beverage containers and dairy milk)) in the year~~
27 in which an annual report must be submitted by a producer under RCW
28 70A.245.030, a producer may submit registration information at the
29 same time as the information submitted through the annual reporting
30 ((required under RCW 70A.245.030)).

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

33 (i) Prepare an annual workload analysis for public comment that
34 identifies the annual costs it expects to incur to implement,
35 administer, and enforce ~~((this section and RCW 70A.245.030 through~~
36 ~~70A.245.060 and 70A.245.090 (1), (2), and (4))~~) the requirements
37 related to postconsumer recycled content under this chapter,
38 including rule making, in the next fiscal year for each category of
39 covered products;

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

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

10 (iv) By 2024, adopt rules to equitably determine annual fee
11 payments by producers or their third-party representatives within
12 each category of covered product. Once such rules are adopted, the
13 general order issued under (a)(iii) of this subsection is no longer
14 effective; and

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

19 (b) The department must:

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

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

26 (c) By April 1, 2022, and every April 1st thereafter, producers
27 or their third-party representative must submit a fee payment as
28 determined by the department under (a) of this subsection. Producers
29 of products newly included as covered products by this act must
30 submit a fee payment as determined by the department under (a) of
31 this subsection by April 1, 2024, and each April 1st thereafter.

32 ~~(4) ((A producer of a beverage in a plastic beverage container~~
33 ~~must meet the following annual minimum postconsumer recycled content~~
34 ~~percentage on average for the total quantity of plastic beverage~~
35 ~~containers, by weight, that are sold, offered for sale, or~~
36 ~~distributed in or into Washington by the producer effective:~~

37 ~~(a) For beverages except wine in 187 milliliter plastic beverage~~
38 ~~containers and dairy milk:~~

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

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

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

5 ~~(b) For wine in 187 milliliter plastic beverage containers and~~
6 ~~dairy milk:~~

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

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

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

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

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

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

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

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

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

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

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

35 ~~(7)) (a) ((Beginning January 1, 2024, or when rule making is~~
36 ~~complete, whichever is sooner, the department may, on an annual basis~~
37 ~~on January 1st,)) By October 31st of each year, the department may~~
38 ~~review and determine for the following year whether to adjust the~~
39 ~~minimum postconsumer recycled content percentage required for a type~~
40 ~~of container or product or category of covered products pursuant to~~

1 (~~subsection (4), (5), or (6) of this section~~) this chapter. The
2 department's review may be initiated by the department or at the
3 petition of a producer or a covered product manufacturing industry
4 not more than once annually. Petitions for review and adjustment must
5 be made to the department in the annual report submitted under RCW
6 70A.245.030 by June 30th of the year prior to the year in which the
7 adjustment would apply. When submitting a petition, producers or a
8 producer manufacturing industry must provide necessary information
9 that will allow the department to make a determination under (b) of
10 this subsection.

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

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

16 (ii) Recycling rates;

17 (iii) The availability of recycled plastic suitable to meet the
18 minimum postconsumer recycled content requirements pursuant to
19 (~~subsection (4), (5), or (6) of this section~~) this chapter,
20 including the availability of high quality recycled plastic, and
21 food-grade recycled plastic from recycling programs;

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

23 (v) The technical feasibility of achieving the minimum
24 postconsumer recycled content requirements in covered products that
25 are regulated under 21 C.F.R., chapter I, subchapter G, 7 U.S.C. Sec.
26 136, 15 U.S.C. Sec. 1471-1477, 49 C.F.R. Sec. 178.33b, 49 C.F.R. Sec.
27 173, 40 C.F.R. Sec. 152.10, 15 U.S.C. Sec. 1261-1278, 49 U.S.C. 5101
28 et seq., 49 C.F.R. Sec. 178.509, 49 C.F.R. Sec. 179.522, 49 C.F.R.
29 Sec. 178.600-609, and other federal laws; and

30 (vi) The progress made by producers in achieving the postconsumer
31 recycled content goals of this (~~section~~) chapter.

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

33 (i) The department may not adjust the minimum postconsumer
34 recycled content requirements above the minimum postconsumer recycled
35 content percentages for the year under review required pursuant to
36 (~~subsection (4), (5), or (6) of this section~~) sections 203 through
37 209 of this act.

38 (ii) For plastic household cleaning product containers and
39 personal care product containers, the department may not adjust the
40 minimum postconsumer recycled content requirements above the minimum

1 postconsumer recycled content percentages for the year under review
2 required pursuant to (~~subsection (5) of this~~) section 204 of this
3 act or below a minimum of 10 percent.

4 (iii) For plastic trash bags, the department may not adjust the
5 minimum postconsumer recycled content requirements above the minimum
6 postconsumer recycled content percentages for the year under review
7 required pursuant to (~~subsection (6) of this~~) section 205 of this
8 act or below the minimum percentage required in (~~subsection (6) (a)~~
9 ~~of this~~) section 205(1) of this act.

10 (d) A producer or the manufacturing industry for a covered
11 product may appeal a decision by the department to adjust
12 postconsumer recycled content percentages under (a) of this
13 subsection or to temporarily exclude covered products from minimum
14 postconsumer recycled content requirements under subsection (~~(+8)~~)
15 (5) of this section to the pollution control hearings board within 30
16 days of the department's determination.

17 (~~(+8)~~) (5) The department must temporarily exclude from minimum
18 postconsumer recycled content requirements for the upcoming year any
19 types of covered products in plastic containers for which a producer
20 annually demonstrates to the department by (~~December 31st~~) June 1st
21 of a given year that the achievement of postconsumer recycled content
22 requirements in the container material is not technically feasible in
23 order to comply with health or safety requirements of federal law,
24 including the federal laws specified in subsection (~~(+7)~~) (4) (b) (v)
25 of this section. A producer must continue to register and report
26 consistent with the requirements of this chapter for covered products
27 temporarily excluded from minimum postconsumer recycled content
28 requirements under this subsection.

29 (~~(+9)~~) (6) A producer that does not achieve the postconsumer
30 recycled content requirements established under this (~~section~~)
31 chapter is subject to penalties established in RCW 70A.245.040.

32 (~~(+10)~~) (7) (a) A city, town, county, or municipal corporation
33 may not implement local recycled content requirements for a covered
34 product that is subject to minimum postconsumer recycled content
35 requirements established in this section.

36 (b) A city, town, county, or municipal corporation may establish
37 local purchasing requirements that include recycled content standards
38 that exceed the minimum recycled content requirements established by
39 this chapter for plastic household cleaning product containers and

1 personal care product containers or plastic trash bags purchased by a
2 city, town, or municipal corporation, or its contractor.

3 ~~((11))~~ (8) The department may enter into contracts for the
4 services required to implement this chapter and related duties of the
5 department.

6 ~~((12))~~ (9) In-state distributors, wholesalers, and retailers in
7 possession of covered products manufactured before the date that
8 postconsumer recycled content requirements become effective may
9 exhaust their existing stock through sales to the public.

10 **Sec. 303.** RCW 70A.245.030 and 2021 c 313 s 4 are each amended to
11 read as follows:

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

27 (b) The report required in (a) of this subsection must include a
28 certificate of compliance or similar proof of certification conducted
29 by a nationally recognized, independent third party that has achieved
30 ISO/IEC 17065 accreditation, as it existed as of January 1, 2023, or
31 a similar certification identified by the department. The proof of
32 certification must include all of the following:

33 (i) The names, locations, and contact information of all sources
34 of postconsumer recycled content material and suppliers of
35 postconsumer recycled content material;

36 (ii) The quantity and dates of postconsumer recycled content
37 material purchases by the producer; and

38 (iii) How postconsumer recycled content material was obtained.

1 (c) The requirements of (a) of this subsection apply to household
2 cleaning products in plastic containers and personal care products in
3 plastic containers beginning (~~(April 1)~~) June 30, 2026.

4 ~~((e))~~ (d) The requirements of (a) of this subsection apply to
5 wine in 187 milliliter plastic beverage containers and dairy milk in
6 plastic beverage containers beginning (~~(April 1, 2029)~~) June 30,
7 2026.

8 ~~((d))~~ (e) The requirements of (a) of this subsection apply to
9 plastic tubs used for food products beginning June 30, 2027.

10 (f) The requirements of (a) of this subsection apply to
11 thermoform plastic containers beginning June 30, 2027.

12 (g) The requirements of (a) of this subsection apply to single-
13 use plastic cups beginning June 30, 2030.

14 (h) The requirements of (a) of this subsection apply to plastic
15 nursery pots and trays beginning June 30, 2027.

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

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

29 (3) The department must review and may approve reports submitted
30 under this section. The department must:

31 (a) Make reports submitted under this section, including
32 petitions for exclusions or rate adjustments under this chapter,
33 available for public review and comment for at least 30 days upon the
34 receipt of the annual report by the department;

35 (b) Make a determination as to whether or not an annual report
36 meets the requirements of this section and notify the producer of
37 the:

38 (i) Determination of approval of the report; or

1 (ii) Reasons for not approving the report. The producer must
2 submit a revised report within 60 days after receipt of the letter of
3 disapproval.

4 (4) The department must post approved annual reports submitted by
5 each producer under this section on its website. The department must
6 also post on its website all resin suppliers meeting postconsumer
7 recycled content certification requirements.

8 **Sec. 304.** RCW 70A.245.040 and 2021 c 313 s 5 are each amended to
9 read as follows:

10 (1)(a) A producer that does not meet the minimum postconsumer
11 recycled content requirements pursuant to (~~RCW 70A.245.020~~) this
12 chapter is subject to a penalty pursuant to this section. Beginning
13 June 1st of the year following the first year that minimum
14 postconsumer recycled product content requirements apply to a
15 category of covered product, the penalty must be calculated
16 consistent with subsection (2) of this section unless a penalty
17 reduction or corrective action plan has been approved pursuant to
18 subsection (3) of this section.

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

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

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

1 postconsumer recycled plastic target percentage, less the pounds of
2 total plastic multiplied by the percent of postconsumer recycled
3 plastic used; multiplied by 20 cents.

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

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

10 (i) The total pounds of plastic used must equal the sum of the
11 amount of virgin plastic, postconsumer recycled content plastic, and
12 any other plastic used by the producer, as reported pursuant to RCW
13 70A.245.030.

14 (ii) If the product calculated pursuant to (a) of this subsection
15 is equal to or less than zero, the department may not assess a
16 penalty.

17 (3) (a) (i) The department shall consider granting a reduction of
18 penalties assessed pursuant to this section for the purpose of
19 meeting the minimum postconsumer recycled content requirements
20 required pursuant to RCW 70A.245.020.

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

24 (A) Anomalous market conditions;

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

26 (C) Other factors that have prevented a producer from meeting the
27 requirements.

28 (b) In lieu of or in addition to assessing a penalty under this
29 section, the department may require a producer to submit a corrective
30 action plan detailing how the producer plans to come into compliance
31 with ((RCW 70A.245.020)) the minimum postconsumer recycled content
32 requirements of this chapter.

33 (4) For the purposes of determining compliance with the
34 postconsumer recycled content requirements of this chapter, the
35 department may consider the date of manufacture of a covered product
36 or the container of a covered product.

37 (5) A producer shall pay the penalty assessed pursuant to this
38 section, as applicable, based on the information reported to the
39 department as required under RCW 70A.245.030 in the form and manner
40 prescribed by the department.

1 (6) A producer may appeal the penalty assessed under this section
2 to the pollution control hearings board within 30 days of assessment.

3 (7) Penalties collected under this section must be deposited in
4 the recycling enhancement account created in RCW 70A.245.100.

5 **Sec. 305.** RCW 70A.245.060 and 2021 c 313 s 7 are each amended to
6 read as follows:

7 (1) Beginning January 1, 2023, producers shall label each package
8 containing plastic trash bags sold, offered for sale, or distributed
9 in or into Washington with:

10 (a) The name of the producer and the city, state, and country
11 where the producer is located, which may be designated as the
12 location of the producer's corporate headquarters and, beginning
13 January 1, 2024, with the percentage of postconsumer recycled content
14 that the plastic trash bag contains; or

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

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

21 (b) For the purposes of this subsection:

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

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

26 **Sec. 306.** RCW 70A.245.090 and 2021 c 313 s 12 are each amended
27 to read as follows:

28 (1) The department may conduct audits and investigations for the
29 purpose of ensuring compliance with (~~RCW 70A.245.020 and~~
30 ~~70A.245.040~~) the postconsumer recycled content requirements of this
31 chapter based on the information reported under RCW 70A.245.030.

32 (2) The department shall annually publish a list of registered
33 producers of covered products subject to minimum postconsumer
34 recycled content requirements and associated brand names, their
35 compliance status, and other information the department deems
36 appropriate on the department's website.

37 (3) To assist regulated parties with the requirements specified
38 under RCW 70A.245.070 and 70A.245.080, the department:

1 (a) Must prepare and post on its website information regarding
2 the prohibitions on the sale and distribution of expanded polystyrene
3 products as specified under RCW 70A.245.070 and restrictions on the
4 provision of optional serviceware under RCW 70A.245.080;

5 (b) For education and outreach to help implement RCW 70A.245.070
6 and 70A.245.080, may develop culturally appropriate and translated
7 educational materials and resources for the state's diverse ethnic
8 populations from existing materials used by local jurisdictions and
9 other states.

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

12 **Sec. 307.** RCW 70A.245.110 and 2021 c 313 s 14 are each amended
13 to read as follows:

14 The recycled content account is created in the custody of the
15 state treasurer. All receipts received by the department under RCW
16 70A.245.020 must be deposited in the account. Only the director of
17 the department or the director's designee may authorize expenditures
18 from the account. The account is subject to the allotment procedures
19 under chapter 43.88 RCW, but an appropriation is not required for
20 expenditures. Expenditures from the account may be used by the
21 department only for implementing, administering, and enforcing (~~the~~
22 ~~requirements of RCW 70A.245.020 through 70A.245.060 and 70A.245.090~~
23 ~~(1), (2), and (4))~~ the provisions of this chapter related to minimum
24 postconsumer recycled content of products.

25 **Sec. 308.** RCW 70A.245.120 and 2021 c 313 s 15 are each amended
26 to read as follows:

27 (1) Subject to the availability of amounts appropriated for this
28 specific purpose prior to January 1, 2028, the department shall
29 contract with a research university or an independent third-party
30 consultant to study the plastic resin markets for all of the
31 following:

32 (a) Analyzing market conditions and opportunities in the state's
33 recycling industry for meeting the minimum postconsumer recycled
34 content requirements for covered products pursuant to (~~RCW~~
35 ~~70A.245.020 and 70A.245.030)) this chapter; and~~

36 (b) Determining the data needs and tracking opportunities to
37 increase the transparency and support of a more effective, fact-based
38 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 (3) This section expires July 1, 2029.

5 NEW SECTION. **Sec. 309.** PACKAGING REGISTRATION CLEARINGHOUSE—
6 PRODUCER REGISTRATION. (1) The department is authorized to
7 participate in the development and ongoing operation of a regional or
8 multistate clearinghouse for the purpose of facilitating the
9 implementation of state laws and rules on packaging and paper
10 products including, but not limited to, requirements established
11 under this chapter and in chapters 70A.222, 70A.230, 70A.245,
12 70A.340, 70A.350, and 70A.455 RCW, and other relevant laws.

13 (2) The department may direct producers to register and submit
14 any required data, annual reports, fees, and annual payments, and any
15 additional information or documentation to a clearinghouse in lieu of
16 the department.

17 **PART 4**
18 **CONFORMING AMENDMENTS AND MISCELLANEOUS**
19 **PROVISIONS**

20 NEW SECTION. **Sec. 401.** A new section is added to chapter
21 70A.222 RCW to read as follows:

22 The department of ecology may direct producers to register and
23 submit any required data, annual reports, fees, and annual payments,
24 and any additional information or documentation to the clearinghouse
25 established in section 308 of this act in lieu of submission to the
26 department.

27 NEW SECTION. **Sec. 402.** A new section is added to chapter
28 70A.350 RCW to read as follows:

29 The department may direct producers to register and submit any
30 required data, annual reports, fees, and annual payments, and any
31 additional information or documentation to the clearinghouse
32 established in section 308 of this act in lieu of submission to the
33 department.

34 NEW SECTION. **Sec. 403.** A new section is added to chapter
35 70A.245 RCW to read as follows:

1 The department may direct producers to register and submit any
2 required data, annual reports, fees, and annual payments, and any
3 additional information or documentation to the clearinghouse
4 established in section 308 of this act in lieu of submission to the
5 department.

6 NEW SECTION. **Sec. 404.** A new section is added to chapter
7 70A.230 RCW to read as follows:

8 The department may direct producers to register and submit any
9 required data, annual reports, fees, and annual payments, and any
10 additional information or documentation to the clearinghouse
11 established in section 308 of this act in lieu of submission to the
12 department.

13 NEW SECTION. **Sec. 405.** A new section is added to chapter
14 70A.340 RCW to read as follows:

15 The department may direct producers to register and submit any
16 required data, annual reports, fees, and annual payments, and any
17 additional information or documentation to the clearinghouse
18 established in section 308 of this act in lieu of submission to the
19 department.

20 NEW SECTION. **Sec. 406.** A new section is added to chapter
21 70A.455 RCW to read as follows:

22 The department may direct producers to register and submit any
23 required data, annual reports, fees, and annual payments, and any
24 additional information or documentation to the clearinghouse
25 established in section 308 of this act in lieu of submission to the
26 department.

27 NEW SECTION. **Sec. 407.** Sections 101 through 103, 201 through
28 209, and section 309 of this act are each added to chapter 70A.245
29 RCW.

30 NEW SECTION. **Sec. 408.** If any provision of this act or its
31 application to any person or circumstance is held invalid, the
32 remainder of the act or the application of the provision to other
33 persons or circumstances is not affected."

34 Correct the title.

EFFECT: Strikes producer responsibility organization and distributor responsibility organization participation requirements, but retains provisions related to: (1) The truth-in-labeling of recyclability claims; (2) postconsumer recycled content requirements applicable to new categories of products including roll carts, plastic tubs for food, and thermoform plastic containers; and (3) the authority for the department of ecology to establish a packaging registration clearinghouse.

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