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**HOUSE BILL 1553**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Representatives Street, Slatter, Fitzgibbon, Ortiz-Self, Berry, Walen, Thai, Taylor, Ramel, Ormsby, Pollet, Doglio, and Macri

Read first time 01/24/23. Referred to Committee on Environment & Energy.

1 AN ACT Relating to providing for responsible environmental  
2 management of batteries; amending RCW 43.21B.110 and 43.21B.300;  
3 adding a new section to chapter 82.04 RCW; adding a new chapter to  
4 Title 70A RCW; and prescribing penalties.

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

6 NEW SECTION. **Sec. 1.** INTENT. The legislature finds that:

7 (1) It is in the public interest of the citizens of Washington to  
8 encourage the recovery and reuse of materials, such as metals, that  
9 replace the output of mining and other extractive industries.

10 (2) Without a dedicated battery stewardship program, battery user  
11 confusion regarding proper disposal options will continue to persist.

12 (3) Ensuring the proper handling, recycling, and end-of-life  
13 management of used batteries prevents the release of toxic materials  
14 into the environment and removes materials from the waste stream  
15 that, if mishandled, may present safety concerns to workers, such as  
16 by igniting fires at solid waste handling facilities. For this  
17 reason, batteries should not be placed into commingled recycling  
18 containers or disposed of via traditional garbage collection  
19 containers.

20 (4) Jurisdictions around the world have successfully implemented  
21 battery stewardship laws that have helped address the challenges

1 posed by the end-of-life management of batteries. Because it is  
2 difficult for customers to differentiate between types and  
3 chemistries of batteries, it is the best practice for battery  
4 stewardship programs to collect all battery types and chemistries.  
5 Furthermore, it is appropriate for larger batteries used in emerging  
6 market sectors such as electric vehicles, solar power arrays, and  
7 data centers, to be managed to ensure environmentally positive  
8 outcomes similar to those achieved by a battery stewardship program,  
9 both because of the potential economic value of large batteries used  
10 for these purposes and the anticipated profusion of these larger  
11 batteries as these market sectors mature.

12 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this  
13 section apply throughout this chapter unless the context clearly  
14 requires otherwise.

15 (1) (a) "Battery-containing product" means a product containing  
16 primary or rechargeable batteries that are covered batteries.

17 (b) A "battery-containing product" does not include a covered  
18 electronic product under an approved plan implemented under chapter  
19 70A.500 RCW.

20 (2) "Battery management hierarchy" means a management system of  
21 covered batteries prioritized in descending order as follows:

22 (a) Waste prevention and reduction;

23 (b) Reuse, when reuse is appropriate;

24 (c) Recycling, as defined in this chapter; and

25 (d) Other means of end-of-life management, which may only be  
26 utilized after demonstrating to the department that it is not  
27 feasible to manage the batteries under the higher priority options in  
28 (a) through (c) of this subsection.

29 (3) "Battery stewardship organization" means a producer that  
30 directly implements a battery stewardship plan required under this  
31 chapter or a nonprofit organization designated by a producer or group  
32 of producers to implement a battery stewardship plan required under  
33 this chapter.

34 (4) "Collection rate" means a percentage, by weight, that a  
35 battery stewardship organization collects that is calculated by  
36 dividing the total weight of primary and rechargeable batteries  
37 collected during a calendar year by the average annual weight of  
38 primary and rechargeable batteries that were estimated to have been

1 sold in the state by all producers participating in an approved  
2 battery stewardship plan during the previous three calendar years.

3 (5) (a) "Covered battery" means a portable battery or, beginning  
4 January 1, 2029, a medium format battery.

5 (b) "Covered battery" does not include:

6 (i) A battery contained within a medical device, as specified in  
7 Title 21 U.S.C. Sec. 321(h) as it existed as of the effective date of  
8 this section, that is not designed and marketed for sale or resale  
9 principally to consumers for personal use;

10 (ii) A battery that contains an electrolyte as a free liquid;

11 (iii) A battery subject to the provisions of RCW 70A.205.505  
12 through 70A.205.530; and

13 (iv) A battery in a battery-containing product that is not  
14 intended or designed to be easily removable from the battery-  
15 containing product.

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

17 (7) "Easily removable" means designed by the manufacturer to be  
18 removable by the user of the product with no more than commonly used  
19 household tools.

20 (8) "Environmentally sound management practices" means practices  
21 that: (a) Comply with all applicable laws and rules to protect  
22 workers, public health, and the environment; (b) provide for adequate  
23 recordkeeping, tracking, and documenting of the fate of materials  
24 within the state and beyond; and (c) include comprehensive liability  
25 coverage for the battery stewardship organization, including  
26 environmental liability coverage.

27 (9) "Final disposition" means the final processing of a collected  
28 battery to produce usable end products, at the point where the  
29 battery has been reduced to its constituent parts, reusable portions  
30 made available for use, and any residues handled as wastes in  
31 accordance with applicable law.

32 (10) "Large format battery" means a rechargeable battery that  
33 weighs more than 25 pounds or has a rating of more than 2,000 watt-  
34 hours and a primary battery that weighs more than 25 pounds.

35 (11) "Medium format battery" means the following primary or  
36 rechargeable covered batteries:

37 (a) For rechargeable batteries, a battery weighing more than 11  
38 pounds or has a rating of more than 300 watt-hours, or both, and no  
39 more than 25 pounds and has a rating of no more than 2,000 watt-  
40 hours;

1 (b) For primary batteries, a battery weighing more than 4.4  
2 pounds but not more than 25 pounds.

3 (12) "Portable battery" means the following primary or  
4 rechargeable covered batteries:

5 (a) For rechargeable batteries, a battery weighing no more than  
6 11 pounds and has a rating of no more than 300 watt-hours;

7 (b) For primary batteries, a battery weighing no more than 4.4  
8 pounds.

9 (13) "Primary battery" means a battery that is not capable of  
10 being recharged.

11 (14)(a) "Producer" means the following person responsible for  
12 compliance with requirements under this chapter for a covered battery  
13 or battery-containing product sold, offered for sale, or distributed  
14 in or into this state:

15 (i) The person that manufactures the covered battery or covered  
16 battery-containing product and sells or offers for sale in or into  
17 the state that battery or product under the person's own brand;

18 (ii) If there is no person to which (a)(i) of this subsection  
19 applies, the owner of a brand under which the covered battery or  
20 covered battery-containing product is sold, offered for sale, or  
21 distributed in or into the state;

22 (iii) If there is no person to which (a)(i) or (ii) of this  
23 subsection applies, the licensee of a brand under which the covered  
24 battery or covered battery-containing product is sold, offered for  
25 sale, or distributed in or into the state;

26 (iv) If there is no person to which (a)(i), (ii), or (iii) of  
27 this subsection applies, a person that imports the covered battery or  
28 covered battery-containing product into the United States for sale or  
29 distribution into Washington;

30 (v) If there is no person described in (a)(i), (ii), (iii), or  
31 (iv) of this subsection over whom the state can constitutionally  
32 exercise jurisdiction, the producer is the person who imports or  
33 distributes the covered battery or covered battery-containing product  
34 in or into the state.

35 (b) A retailer that sells covered batteries or battery-containing  
36 products under its own brand, or that otherwise meets the definition  
37 of a producer in (a) of this subsection, is a producer for purposes  
38 of this chapter.

1 (15) "Program" means a program implemented by a battery  
2 stewardship organization consistent with an approved battery  
3 stewardship plan.

4 (16) "Rechargeable battery" means a battery that contains one or  
5 more voltaic or galvanic cells, electrically connected to produce  
6 electric energy, designed to be recharged.

7 (17) "Recycling" means transforming or remanufacturing waste  
8 materials into usable or marketable materials for use other than:

9 (a) Combustion;

10 (b) Incineration;

11 (c) Energy generation;

12 (d) Fuel production; or

13 (e) Beneficial reuse in the construction and operation of a solid  
14 waste landfill, including use of alternative daily cover.

15 (18) "Recycling efficiency rate" means the ratio of the weight of  
16 covered battery components recycled by a program operator from  
17 covered batteries to the weight of those covered batteries collected  
18 by the program operator.

19 (19) "Retailer" means a person who sells covered batteries or  
20 battery-containing products in or into this state or offers or  
21 otherwise makes available covered batteries or battery-containing  
22 products to a customer, including other businesses, for use in this  
23 state.

24 (20) "Urban cluster" means areas of population density of 2,500  
25 to 50,000, as defined by the United States census bureau as of  
26 January 1, 2021. The department may update this definition to align  
27 with changes made by the United States census bureau.

28 (21) "Urbanized area" means areas of high population density with  
29 populations of 50,000 or greater, as defined by the United States  
30 census bureau as of January 1, 2021. The department may update this  
31 definition to align with changes made by the United States census  
32 bureau.

33 NEW SECTION. **Sec. 3.** REQUIREMENT THAT PRODUCERS IMPLEMENT A  
34 STEWARDSHIP PLAN. (1) Beginning January 1, 2027, each producer  
35 selling covered batteries or battery-containing products in or into  
36 the state of Washington shall participate in an approved Washington  
37 state battery stewardship plan through participation in and  
38 appropriate funding of a battery stewardship organization.

1 (2) A producer that does not participate in a battery stewardship  
2 organization and battery stewardship plan may not sell covered  
3 batteries or battery-containing products covered by this chapter in  
4 or into Washington.

5 NEW SECTION. **Sec. 4.** ROLE OF RETAILERS. (1) Beginning July 1,  
6 2027, for portable batteries, and July 1, 2029, for medium format  
7 batteries, a retailer may not sell, offer for sale, or otherwise make  
8 available for sale a covered battery or battery-containing product  
9 unless the producer of the covered battery or battery-containing  
10 product certifies to the retailer that the producer participates in a  
11 battery stewardship organization whose plan has been approved by the  
12 department.

13 (2) A retailer is in compliance with the requirements of  
14 subsection (1) of this section and is not subject to penalties under  
15 section 12 of this act as long as the website made available by the  
16 department under section 11 of this act lists, as of the date a  
17 product is made available for retail sale, a producer or brand of  
18 covered battery or battery-containing product sold by the retailer as  
19 being a participant in an approved plan or the implementer of an  
20 approved plan.

21 (3) Retailers of covered batteries or battery-containing products  
22 are not required to make retail locations available to serve as  
23 collection locations for a stewardship program operated by a battery  
24 stewardship organization. Retailers that serve as a collection  
25 location must comply with the requirements for collection locations,  
26 consistent with section 8 of this act.

27 (4) A retailer may not sell, offer for sale, or otherwise make  
28 available for sale covered batteries, unless those batteries are  
29 marked consistent with the requirements of section 14 of this act. A  
30 producer of a battery-containing product containing a covered battery  
31 must certify to the retailers of their product that the battery  
32 contained in the battery-containing product is marked consistent with  
33 the requirements of section 14 of this act. A retailer may rely on  
34 this certification for purposes of compliance under this subsection.

35 (5) A retailer selling or offering covered batteries or battery-  
36 containing products for sale in Washington may provide information,  
37 provided to the retailer by the battery stewardship organization,  
38 regarding available end-of-life management options for covered  
39 batteries collected by the battery stewardship organization. The

1 information that a battery stewardship organization must make  
2 available to retailers for voluntary use by retailers must include,  
3 but is not limited to, in-store signage, written materials, and other  
4 promotional materials that retailers may use to inform customers of  
5 the available end-of-life management options for covered batteries  
6 collected by the battery stewardship organization.

7 (6) Retailers, producers, or battery stewardship organizations  
8 may not charge a specific point-of-sale fee to consumers to cover the  
9 administrative or operational costs of the battery stewardship  
10 organization or the battery stewardship program.

11 NEW SECTION. **Sec. 5.** STEWARDSHIP PLAN COMPONENTS. (1) Within  
12 six months of the rules adopted by the department, each battery  
13 stewardship organization must submit a plan for covered portable  
14 batteries to the department for approval. Within 24 months of the  
15 rules adopted by the department, each battery stewardship  
16 organization must submit a plan for covered medium format batteries  
17 to the department for approval. A battery stewardship organization  
18 may submit a plan at any time to the department for review and  
19 approval. The department must review and may approve a plan based on  
20 whether it contains and adequately addresses the following  
21 components:

22 (a) Lists and provides contact information for each producer,  
23 battery brand, and battery-containing product brand covered in the  
24 plan;

25 (b) Proposes performance goals, consistent with section 6 of this  
26 act, including establishing performance goals for each of the next  
27 three upcoming calendar years of program implementation;

28 (c) Describes how the battery stewardship organization will make  
29 retailers aware of their obligation to sell only covered batteries  
30 and battery-containing products of producers participating in an  
31 approved plan;

32 (d) Describes the education and communications strategy being  
33 implemented to effectively promote participation in the approved  
34 covered battery stewardship program and provide the information  
35 necessary for effective participation of consumers, retailers, and  
36 others;

37 (e) Describes how the battery stewardship organization will make  
38 available to retailers, for voluntary use, in-store signage, written  
39 materials, and other promotional materials that retailers may use to

1 inform customers of the available end-of-life management options for  
2 covered batteries collected by the battery stewardship organization;

3 (f) A list of promotional activities to be undertaken, and the  
4 identification of consumer awareness goals and strategies that the  
5 program will employ to achieve these goals after the program begins  
6 to be implemented;

7 (g) Includes collection site safety training procedures related  
8 to covered battery collection activities at collection sites,  
9 including appropriate protocols to reduce risks of spills or fires  
10 and response protocols in the event of a spill or fire, and a  
11 protocol for safe management of damaged batteries that are returned  
12 to collection sites;

13 (h) A description of the method to establish and administer a  
14 means for fully funding the program in a manner that equitably  
15 distributes the program's costs among the producers that are part of  
16 the battery stewardship organization. For producers that elect to  
17 meet the requirements of this chapter individually, without joining a  
18 battery stewardship organization, a description of the proposed  
19 method to establish and administer a means for fully funding the  
20 program;

21 (i) A description of the financing methods used to implement the  
22 plan, consistent with section 7 of this act, including how producer  
23 fees and fee modulation will incorporate design for recycling and  
24 resource conservation as objectives, and a template reimbursement  
25 agreement, developed in consultation with local governments, for  
26 local governments and other program stakeholders;

27 (j) A description of how the program will collect all covered  
28 battery chemistries and brands on a free, continuous, convenient,  
29 visible, and accessible basis, and consistent with the requirements  
30 of section 8 of this act, including a description of how the  
31 statewide convenience standard will be met and a list of collection  
32 sites, including the address and latitude and longitude of collection  
33 sites;

34 (k) A description of the criteria to be used in the program to  
35 determine whether an entity may serve as a collection location for  
36 discarded batteries under the program;

37 (l) Collection goals for each of the first three years of  
38 implementation of the battery stewardship plan that are based on the  
39 estimated total weight of primary and rechargeable covered batteries



1 that have been sold in the state in the previous three calendar years  
2 by the producers participating in the battery stewardship plan;

3 (m) Identification of proposed brokers, transporters, processors,  
4 and facilities to be used by the program for the final disposition of  
5 batteries and how collected batteries will be managed in:

6 (i) An environmentally sound and socially just manner at  
7 facilities operating with human health and environmental protection  
8 standards that are broadly equivalent to or better than those  
9 required in the United States and other countries that are members of  
10 the battery stewardship organization for economic cooperation and  
11 development; and

12 (ii) A manner consistent with the battery management hierarchy,  
13 including how each proposed facility used for the final disposition  
14 of batteries will recycle or otherwise manage batteries;

15 (n) Details how the program will achieve a recycling efficiency  
16 rate, calculated consistent with section 10 of this act, of at least  
17 60 percent for rechargeable batteries and at least 70 percent for  
18 primary batteries; and

19 (o) Proposes goals for increasing public awareness of the  
20 program, including subgoals applicable to public awareness of the  
21 program in vulnerable populations and overburdened communities  
22 identified by the department under chapter 70A.02 RCW, and describes  
23 how the public education and outreach components of the program under  
24 section 9 of this act will be implemented.

25 (2) If required by the department, a battery stewardship  
26 organization must submit a new plan to the department for approval:

27 (a) If there are significant changes to the methods of  
28 collection, transport, or end-of-life management of covered batteries  
29 under section 8 of this act that are not covered by the plan. The  
30 department may, by rule, identify the types of significant changes  
31 that require a new plan to be submitted to the department for  
32 approval. For purposes of this subsection, adding or removing a  
33 processor or transporter under the plan is not considered a  
34 significant change that requires a plan resubmittal;

35 (b) To address the novel inclusion of medium format batteries or  
36 large format batteries as covered batteries under the plan; and

37 (c) No less than every five years.

38 (3) If required by the department, a battery stewardship  
39 organization must provide plan amendments to the department for  
40 approval:

1 (a) When proposing changes to the performance goals under section  
2 6 of this act;

3 (b) When there is a change to the method of financing plan  
4 implementation under section 7 of this act;

5 (c) When adding or removing a processor or transporter, as part  
6 of a quarterly update submitted to the department; or

7 (d) Proposing updated performance goals based upon the to-date  
8 experience of the program, which must be submitted at the time the  
9 second annual report is submitted to the department by a battery  
10 stewardship organization under section 10 of this act and every two  
11 years thereafter.

12 (4) As part of a quarterly update, a battery stewardship  
13 organization must notify the department after a producer begins or  
14 ceases to participate in a battery stewardship organization. The  
15 quarterly update submitted to the department must also include a  
16 current list of the producers and brands participating in the plan.

17 (5) No earlier than five years after the initial approval of a  
18 plan, the department may require a battery stewardship organization  
19 to submit a revised plan, which may include improvements to the  
20 collection site network or increased expenditures dedicated to  
21 education and outreach if the approved plan has not met the  
22 performance goals under section 6 of this act.

23 NEW SECTION. **Sec. 6.** STEWARDSHIP PROGRAM COMPONENTS—PERFORMANCE  
24 GOALS. (1) Each battery stewardship plan must include performance  
25 goals that measure, on an annual basis, the achievements of the  
26 program. Performance goals must take into consideration technical  
27 feasibility and economic practicality in achieving continuous,  
28 meaningful progress in improving:

29 (a) The rate of battery collection for recycling in Washington;

30 (b) The recycling efficiency of the program; and

31 (c) Public awareness of the program.

32 (2) The performance goals established in each battery stewardship  
33 plan must include, but are not limited to:

34 (a) Target collection rates;

35 (b) Target recycling efficiency rates of at least 60 percent for  
36 rechargeable batteries and at least 70 percent for primary batteries;

37 and

1 (c) Goals for public awareness, convenience, and accessibility  
2 that meet or exceed the minimum requirements established in section 8  
3 of this act.

4 NEW SECTION. **Sec. 7.** STEWARDSHIP PROGRAM COMPONENTS—FUNDING.

5 (1) Each battery stewardship organization must ensure adequate  
6 funding is available to fully implement approved battery stewardship  
7 plans, including the implementation of aspects of the plan  
8 addressing:

- 9 (a) Battery collection, transporting, and processing;
- 10 (b) Education and outreach;
- 11 (c) Program evaluation; and
- 12 (d) Payment of the administrative fees to the department under  
13 section 11 of this act.

14 (2) A battery stewardship organization implementing a battery  
15 stewardship plan on behalf of producers must develop, and continually  
16 improve over the years of program implementation, a system to collect  
17 charges from participating producers to cover the costs of plan  
18 implementation in an environmentally sound and socially just manner  
19 that encourages the use of design attributes that reduce the  
20 environmental impacts of covered batteries, such as through the use  
21 of eco-modulated fees. Examples of fee structures that meet the  
22 requirements of this subsection include using eco-modulated fees to:

- 23 (a) Encourage designs intended to facilitate reuse and recycling;
- 24 (b) Encourage the use of recycled content;
- 25 (c) Discourage the use of problematic materials that increase  
26 system costs of managing covered products; and
- 27 (d) Encourage other design attributes that reduce the  
28 environmental impacts of covered products.

29 (3) (a) Each battery stewardship organization is responsible for  
30 all costs of participating covered battery collection,  
31 transportation, processing, education, administration, agency  
32 reimbursement, recycling, and end-of-life management in accordance  
33 with the battery management hierarchy and environmentally sound  
34 management practices.

35 (b) Each battery stewardship organization must meet the  
36 collection goals as specified in section 5 of this act.

37 (c) A battery stewardship organization is not authorized to  
38 reduce or cease collection, education and outreach, or other

1 activities implemented under an approved plan based on achievement of  
2 program performance goals.

3 (4) (a) A battery stewardship organization must reimburse local  
4 governments for demonstrable costs incurred as a result of a local  
5 government facility or solid waste handling facility serving as a  
6 collection location for a program including, but not limited to,  
7 associated labor costs and other costs associated with accessibility  
8 and collection site standards such as storage.

9 (b) A battery stewardship organization shall at a minimum provide  
10 collection sites with appropriate containers for covered batteries  
11 subject to its program, training, signage, safety guidance, and  
12 educational materials, at no cost to the collection sites.

13 (c) A battery stewardship organization must include in its  
14 battery stewardship plan a template of the service agreement and any  
15 other forms, contracts, or other documents for use in distribution of  
16 reimbursements. The service agreement template must be developed with  
17 local government input. The entities seeking or receiving  
18 reimbursement from the battery stewardship organization are not  
19 required to use the template agreement included in the program plan  
20 and are not limited to the terms of the template agreement included  
21 in the program plan.

22 NEW SECTION. **Sec. 8.** STEWARDSHIP PROGRAM COMPONENTS—COLLECTION  
23 AND MANAGEMENT REQUIREMENTS. (1) Battery stewardship organizations  
24 implementing a battery stewardship plan must provide for the  
25 collection of all covered batteries, including all chemistries and  
26 brands of covered batteries, on a free, continuous, convenient,  
27 visible, and accessible basis to any person, business, government  
28 agency, or nonprofit organization. A fee may not be charged at the  
29 time unwanted covered batteries are delivered or collected for  
30 management. Except as provided in subsection (2) (b) of this section,  
31 each battery stewardship plan must allow any person, business,  
32 government agency, or nonprofit organization to discard each  
33 chemistry and brand of covered battery at each collection site that  
34 counts towards the satisfaction of the collection site criteria in  
35 subsection (3) of this section.

36 (2) (a) For each collection site utilized by the program, each  
37 battery stewardship organization must provide suitable collection  
38 containers for covered batteries that are segregated from other solid  
39 waste or make mutually agreeable alternative arrangements for the

1 collection of batteries at the site. The location of collection  
2 containers at each collection site used by the program must be within  
3 view of a responsible person and must be accompanied by signage made  
4 available to the collection site by the battery stewardship  
5 organization that informs customers regarding the end-of-life  
6 management options for batteries provided by the collection site  
7 under this chapter. Each collection site must adhere to the  
8 operations manual and other safety information provided to the  
9 collection site by the battery stewardship organization.

10 (b) Medium format batteries may only be collected at household  
11 hazardous waste collection locations or other locations that are  
12 staffed by persons who are certified to handle and ship hazardous  
13 materials under federal regulations adopted by the United States  
14 department of transportation pipeline and hazardous materials safety  
15 administration.

16 (c) (i) Damaged and defective batteries are intended to be  
17 collected at collection locations staffed by persons trained to  
18 handle and ship those batteries.

19 (ii) Each battery stewardship organization must provide for  
20 collection of damaged and defective batteries in each county of the  
21 state, either through collection sites or collection events with  
22 qualified staff as specified in (c) (i) of this subsection. Collection  
23 events should be provided periodically throughout the year where  
24 practicable, but must be provided at least once per year at a  
25 minimum.

26 (iii) As used in this subsection, "damaged and defective  
27 batteries" means batteries that have been damaged or identified by  
28 the manufacturer as being defective for safety reasons, that have the  
29 potential of producing a dangerous evolution of heat, fire, or short  
30 circuit, as referred to in 49 C.F.R. Sec. 173.185(f) as of January 1,  
31 2023.

32 (3) (a) Each battery stewardship organization implementing a  
33 battery stewardship plan shall ensure statewide collection  
34 opportunities for all covered batteries. Battery stewardship  
35 organizations shall coordinate activities with other program  
36 operators, including covered battery collection and recycle programs  
37 and electronic waste recyclers, with regard to the proper management  
38 or recycling of collected covered batteries, for purposes of  
39 providing the efficient delivery of services and avoiding unnecessary  
40 duplication of effort and expense. Statewide collection opportunities

1 must be determined by geographic information modeling that considers  
2 permanent collection sites. A program may rely, in part, on  
3 collection events to supplement the permanent collection services  
4 required in (a) and (b) of this subsection. However, only permanent  
5 collection services specified in (a) and (b) of this subsection  
6 qualify towards the satisfaction of the requirements of this  
7 subsection.

8 (b) For portable batteries, each battery stewardship organization  
9 must provide statewide collection opportunities that include, but are  
10 not limited to, the provision of:

11 (i) At least one permanent collection site for portable batteries  
12 within a 15 mile radius for at least 95 percent of Washington  
13 residents;

14 (ii) The establishment of collection sites that are accessible  
15 and convenient to overburdened communities identified by the  
16 department under chapter 70A.02 RCW, in an amount that is roughly  
17 proportional to the number and population of overburdened communities  
18 identified by the department under chapter 70A.02 RCW relative to the  
19 population or size of the state as a whole;

20 (iii) At least one permanent collection site for portable  
21 batteries in addition to those required in (b)(i) of this subsection  
22 for every 30,000 residents of an urbanized area and for every urban  
23 cluster of at least 30,000 residents. For the purposes of compliance  
24 with this subsection (3)(b)(iii), a battery stewardship organization  
25 and the department may rely upon designations of urban locations by  
26 the United States census bureau that are determined by the department  
27 to be similar to the definitions of urbanized area or urban cluster  
28 in section 2 of this act;

29 (iv) Collection opportunities for portable batteries at special  
30 locations where batteries are often spent and replaced, such as  
31 supervised locations at parks with stores and campgrounds; and

32 (v) Service to areas without a permanent collection site,  
33 including service to island and geographically isolated communities.

34 (c) For medium format batteries, a battery stewardship  
35 organization must provide statewide collection opportunities that  
36 include, but are not limited to, the provision of:

37 (i) At least 25 collection sites in Washington;

38 (ii) Reasonable geographic dispersion of collection sites  
39 throughout the state;

1 (iii) A collection location in each county of at least 200,000  
2 persons, as determined by the most recent population estimate of the  
3 office of financial management;

4 (iv) The establishment of collection sites that are accessible to  
5 public transit and that are convenient to overburdened communities  
6 identified by the department under chapter 70A.02 RCW; and

7 (v) Service to areas without a permanent collection site,  
8 including service to island and geographically isolated communities.  
9 A battery stewardship organization must ensure that there is a  
10 collection site or annual collection event in each county of the  
11 state. Collection events should be provided periodically throughout  
12 the year where practicable, but must be provided at least once per  
13 year at a minimum.

14 (4) (a) Stewardship programs must use existing public and private  
15 waste collection services and facilities, including battery  
16 collection locations that are established through other battery  
17 collection services, transporters, consolidators, processors,  
18 retailers, and curbside services, where cost-effective, mutually  
19 agreeable, and otherwise practicable.

20 (b) Stewardship programs must use as a collection site for  
21 portable batteries any retailer, wholesaler, municipality, solid  
22 waste management facility, or other entity that meets the criteria  
23 for collection locations in the approved plan, upon the submission of  
24 a request by the entity to the battery stewardship organization to  
25 serve as a collection site.

26 (c) A battery stewardship organization may suspend or terminate a  
27 collection site or service that does not adhere to the collection  
28 site criteria in the approved plan and that poses an immediate health  
29 and safety concern.

30 (5) (a) Stewardship programs are not required to provide for the  
31 collection of battery-containing products.

32 (b) Stewardship programs are not required to provide for the  
33 collection of batteries that:

34 (i) Are not easily removable from the product other than by the  
35 manufacturer; and

36 (ii) Remain contained in a battery-containing product at the time  
37 of delivery to a collection site.

38 (c) Stewardship programs are required to provide for the  
39 collection of loose batteries.

1 (d) Stewardship programs are not required to provide for the  
2 collection of batteries still contained in covered electronic  
3 products under chapter 70A.500 RCW.

4 (6) Batteries collected by the program must be managed consistent  
5 with the battery management hierarchy. Lower priority end-of-life  
6 battery management options on the battery management hierarchy may be  
7 used by a program only when a battery stewardship organization  
8 documents to the department that all higher priority battery  
9 management options on the battery management hierarchy are not  
10 technologically feasible or economically practical.

11 NEW SECTION. **Sec. 9.** STEWARDSHIP PROGRAM COMPONENTS—EDUCATION  
12 AND OUTREACH REQUIREMENTS. (1) Each battery stewardship organization  
13 must carry out promotional activities in support of plan  
14 implementation including, but not limited to, the development:

15 (a) And maintenance of a website;

16 (b) And distribution of periodic press releases and articles;

17 (c) And placement of advertisements for use on social media or  
18 other relevant media platforms;

19 (d) Of promotional materials about the program and the  
20 restriction on the disposal of covered batteries in section 15 of  
21 this act to be used by retailers, government agencies, and nonprofit  
22 organizations;

23 (e) And distribution of the collection site safety training  
24 procedures approved by the department to collection sites to help  
25 ensure proper management of covered batteries at collection  
26 locations; and

27 (f) And implementation of outreach and educational resources  
28 targeted to overburdened communities and vulnerable populations  
29 identified by the department under chapter 70A.02 RCW that are  
30 conceptually, linguistically, and culturally accurate for the  
31 communities served and reach the state's diverse ethnic populations,  
32 including through meaningful consultation with communities that bear  
33 disproportionately higher levels of adverse environmental and social  
34 justice impacts.

35 (2) Each battery stewardship organization must provide:

36 (a) Consumer-focused educational promotional materials to each  
37 collection location used by the program and accessible by customers  
38 of retailers that sell covered batteries or battery-containing  
39 products; and



1 (b) Safety information related to covered battery collection  
2 activities to the operator of each collection site, including  
3 appropriate protocols to reduce risks of spills or fires and response  
4 protocols in the event of a spill or fire.

5 (3) (a) Each battery stewardship organization must provide  
6 educational materials to the operator of each collection site for the  
7 management of recalled batteries, which are not intended to be part  
8 of collection as provided under section 8 of this act, to help  
9 facilitate transportation and processing of recalled batteries.

10 (b) A battery stewardship organization may seek reimbursement  
11 from the manufacturer of the recalled battery for expenses incurred  
12 in the collection, transportation, or processing of those batteries.

13 (4) Upon request by a retailer, the battery stewardship  
14 organization must provide the retailer educational materials  
15 describing collection opportunities for batteries.

16 (5) If multiple battery stewardship organizations are  
17 implementing plans approved by the department, the battery  
18 stewardship organizations must coordinate in carrying out their  
19 education and outreach responsibilities under this section and must  
20 include in their annual reports to the department under section 10 of  
21 this act a summary of their coordinated education and outreach  
22 efforts.

23 (6) During the first year of program implementation and every  
24 five years thereafter, each battery stewardship organization must  
25 carry out a survey of public awareness regarding the requirements of  
26 the program established under this chapter, including the provisions  
27 of section 15 of this act. Each battery stewardship organization must  
28 share the results of the public awareness surveys with the  
29 department.

30 NEW SECTION. **Sec. 10.** REPORTING REQUIREMENTS. (1) By June 1,  
31 2028, and each June 1st thereafter, each battery stewardship  
32 organization must submit an annual report to the department covering  
33 the preceding calendar year of battery stewardship plan  
34 implementation. The report must include:

35 (a) An independent financial assessment of a program implemented  
36 by the battery stewardship organization, including a breakdown of the  
37 program's expenses, such as collection, recycling, education, and  
38 overhead, when required by the department;

1 (b) A summary financial statement documenting the financing of a  
2 battery stewardship organization's program and an analysis of program  
3 costs and expenditures, including an analysis of the program's  
4 expenses, such as collection, transportation, recycling, education,  
5 and administrative overhead. The summary financial statement must be  
6 sufficiently detailed to provide transparency that funds collected  
7 from producers as a result of their activities in Washington are  
8 spent on program implementation in Washington. Battery stewardship  
9 organizations implementing similar battery stewardship programs in  
10 multiple states may submit a financial statement including all  
11 covered states, as long as the statement breaks out financial  
12 information pertinent to Washington;

13 (c) The weight, by chemistry, of covered batteries collected  
14 under the program;

15 (d) The weight of materials recycled from covered batteries  
16 collected under the program, in total, and by battery recycling  
17 process;

18 (e) A calculation of the recycling efficiency rates, as measured  
19 consistent with subsection (2) of this section;

20 (f) For each facility used for the final disposition of  
21 batteries, a description of how the facility recycled or otherwise  
22 disposed of batteries and battery components;

23 (g) The weight and chemistry of batteries sent to each facility  
24 used for the final disposition of batteries. The information in this  
25 subsection (1)(g) may be approximated for program operations in  
26 Washington based on extrapolations of national or regional data for  
27 programs in operation in multiple states;

28 (h) The collection rate achieved by battery chemistry under the  
29 program, including a description of how this collection rate was  
30 calculated;

31 (i) The estimated aggregate sales, by weight and chemistry, of  
32 batteries and batteries contained in or with battery-containing  
33 products sold in Washington by participating producers for each of  
34 the previous three calendar years;

35 (j) A description of the manner in which the collected batteries  
36 were managed and recycled, including a discussion of best available  
37 technologies and the recycling efficiency rate;

38 (k) A description of education and outreach efforts supporting  
39 plan implementation including, but not limited to, a summary of  
40 education and outreach provided to consumers, collection sites,

1 manufacturers, distributors, and retailers by the program operator  
2 for the purpose of promoting the collection and recycling of covered  
3 batteries, a description of how that education and outreach met the  
4 requirements of section 9 of this act, samples of education and  
5 outreach materials, a summary of coordinated education and outreach  
6 efforts with any other battery stewardship organizations implementing  
7 a plan approved by the department, and a summary of any changes made  
8 during the previous calendar year to education and outreach  
9 activities;

10 (l) A list of all collection locations and accompanying latitude  
11 and longitude data and an address for each listed site, and an up-to-  
12 date map indicating the location of all collection sites used to  
13 implement the program, with links to appropriate websites where there  
14 are existing websites associated with a location;

15 (m) A description of methods used to collect, transport, and  
16 recycle covered batteries by the battery stewardship organization;

17 (n) A summary on progress made towards the program performance  
18 goals established under section 6 of this act, and an explanation of  
19 why performance goals were not met, if applicable; and

20 (o) An evaluation of the effectiveness of education and outreach  
21 activities.

22 (2) The weight of batteries or recovered resources from those  
23 batteries must only be counted once and may not be counted by more  
24 than one producer.

25 (3) In addition to the requirements of subsection (1) of this  
26 section, with respect to each facility used in the processing or  
27 disposition of batteries collected under the program, the battery  
28 stewardship organization must report:

29 (a) Whether the facility is located domestically, in an  
30 organization for economic cooperation and development country, or in  
31 a country that meets organization for economic cooperation and  
32 development operating standards; and

33 (b) What facilities processed the batteries, including a summary  
34 of any violations of environmental or labor laws and regulations over  
35 the previous three years at each facility.

36 (4) If a battery stewardship organization has disposed of covered  
37 batteries through energy recovery, incineration, or landfilling during  
38 the preceding calendar year of program implementation, the annual  
39 report must specify the steps that the battery stewardship  
40 organization will take to make the recycling of covered batteries

1 cost-effective, where possible, or to otherwise increase battery  
2 recycling rates achieved by the battery stewardship organization.

3 (5) A producer or battery stewardship organization that submits  
4 information or records to the department under this chapter may  
5 request that the information or records be made available only for  
6 the confidential use of the department, the director of the  
7 department, or the appropriate division of the department. The  
8 director of the department must consider the request and if this  
9 action is not detrimental to the public interest and is otherwise in  
10 accordance with the policies and purposes of chapter 43.21A RCW, the  
11 director must grant the request for the information to remain  
12 confidential as authorized in RCW 43.21A.160.

13 NEW SECTION. **Sec. 11.** FEE AND DEPARTMENT OF ECOLOGY ROLE. (1)

14 The department must adopt rules as necessary for the purpose of  
15 implementing, administering, and enforcing this chapter. The  
16 department must by rule establish fees, to be paid annually by a  
17 battery stewardship organization, that are adequate to cover the  
18 department's full costs of implementing, administering, and enforcing  
19 this chapter. If the department adopts rules that require producers  
20 of certain large format batteries or other battery categories  
21 addressed in sections 16 and 17 of this act to participate in a  
22 battery stewardship organization regulated by the department, the  
23 department may establish fees to be paid annually by a battery  
24 stewardship organization that are adequate to cover the department's  
25 full costs of implementing, administering, and enforcing the  
26 requirements of this chapter applicable to those batteries. All fees  
27 must be based on costs related to implementing, administering, and  
28 enforcing this chapter, not to exceed expenses incurred by the  
29 department for these activities.

30 (2) The responsibilities of the department in implementing,  
31 administering, and enforcing this chapter include, but are not  
32 limited to:

33 (a) Reviewing submitted stewardship plans and plan amendments and  
34 making determinations as to whether to approve the plan or plan  
35 amendment;

36 (i) The department must provide a letter of approval for the plan  
37 or plan amendment if it provides for the establishment of a  
38 stewardship program that meets the requirements of sections 3 through  
39 9 of this act;

1 (ii) If a plan or plan amendment is rejected, the department must  
2 provide the reasons for rejecting the plan to the battery stewardship  
3 organization. The battery stewardship organization must submit a new  
4 plan within 60 days after receipt of the letter of disapproval; and

5 (iii) When a plan or an amendment to an approved plan is  
6 submitted under this section, the department shall make the proposed  
7 plan or amendment available for public review and comment for at  
8 least 30 days;

9 (b) Reviewing annual reports submitted under section 10 of this  
10 act within 90 days of submission to ensure compliance with that  
11 section;

12 (c)(i) Maintaining a website that lists producers and their  
13 brands that are participating in an approved plan, and that makes  
14 available to the public each plan, plan amendment, and annual report  
15 received by the department under this chapter;

16 (ii) Upon the date the first plan is approved, the department  
17 must post on its website a list of producers and their brands for  
18 which the department has approved a plan. The department must update  
19 the list of producers and brands participating under an approved  
20 program plan based on information provided to the department from  
21 battery stewardship organizations; and

22 (d) Providing technical assistance to producers and retailers  
23 related to the requirements of this chapter and issuing orders or  
24 imposing civil penalties authorized under section 12 of this act  
25 where the technical assistance efforts do not lead to compliance by a  
26 producer or retailer.

27 (3) Beginning January 1, 2032, and every five years thereafter,  
28 the department may after consultation with battery stewardship  
29 organizations and through rules adopted by the department increase  
30 the minimum recycling efficiency rates established in section 6 of  
31 this act based on the most economically and technically feasible  
32 processes and methodology available.

33 NEW SECTION. **Sec. 12.** PENALTIES AND CIVIL ACTION PROVISIONS.

34 (1)(a) A battery stewardship organization implementing an approved  
35 plan may bring a civil action or actions to recover costs, damages,  
36 and fees, as specified in this section, from a producer who sells or  
37 otherwise makes available in Washington covered batteries, battery-  
38 containing products, or large format batteries not included in an  
39 approved plan in violation of the requirements of this chapter. An

1 action under this section may be brought against one or more  
2 defendants. An action may only be brought against a defendant  
3 producer when the stewardship program incurs costs in Washington,  
4 including reasonable incremental administrative and program  
5 promotional costs, in excess of \$1,000 to collect, transport, and  
6 recycle or otherwise dispose of the covered batteries, battery-  
7 containing products, or large format batteries of a nonparticipating  
8 producer.

9 (b) A battery stewardship organization implementing an approved  
10 stewardship plan may bring a civil action against another battery  
11 stewardship organization that underperforms on its battery collection  
12 obligations under this chapter by failing to collect and provide for  
13 the end-of-life management of batteries in an amount roughly  
14 equivalent to costs imposed on the plaintiff battery stewardship  
15 organization by virtue of the failures of the defendants and legal  
16 fees and expenses.

17 (c) The remedies provided in this subsection are in addition to  
18 the enforcement authority of the department and do not limit and are  
19 not limited by a decision by the department to impose a civil penalty  
20 or issue an order under subsection (2) of this section. The  
21 department is not required to audit, participate in, or provide  
22 assistance to a battery stewardship organization pursuing a civil  
23 action authorized under this subsection.

24 (2) (a) The department may administratively impose a civil penalty  
25 on a person who violates this chapter in an amount of up to \$1,000  
26 per violation per day.

27 (b) The department may administratively impose a civil penalty of  
28 up to \$10,000 per violation per day on a person for repeated  
29 violations of this chapter or failure to comply with an order issued  
30 under (c) of this subsection.

31 (c) Whenever on the basis of any information the department  
32 determines that a person has violated or is in violation of this  
33 chapter, the department may issue an order requiring compliance. A  
34 person who fails to take corrective action as specified in a  
35 compliance order is liable for a civil penalty as provided in (b) of  
36 this subsection, without receiving a written warning prescribed in  
37 (e) of this subsection.

38 (d) A person who is issued an order or incurs a penalty under  
39 this section may appeal the order or penalty to the pollution control  
40 hearings board established by chapter 43.21B RCW.

1 (e) Prior to imposing penalties under this section, the  
2 department must provide a producer, retailer, or battery stewardship  
3 organization with a written warning for the first violation by the  
4 producer, retailer, or battery stewardship organization of the  
5 requirements of this chapter. The written warning must inform a  
6 producer, retailer, or battery stewardship organization that it must  
7 participate in an approved plan or otherwise come into compliance  
8 with the requirements of this chapter within 30 days of the notice. A  
9 producer, retailer, or battery stewardship organization that violates  
10 a provision of this chapter after the initial written warning may be  
11 assessed a penalty as provided in this subsection.

12 (3) Penalties levied under subsection (2) of this section must be  
13 deposited in the responsible battery management account created in  
14 section 13 of this act.

15 NEW SECTION. **Sec. 13.** RESPONSIBLE BATTERY MANAGEMENT ACCOUNT.  
16 The responsible battery management account is created in the custody  
17 of the state treasurer. All receipts from activities undertaken  
18 consistent with chapter 70A.--- RCW (the new chapter created in  
19 section 22 of this act) must be deposited in the account. Only the  
20 director of the department or the director's designee may authorize  
21 expenditures from the account. The account is subject to allotment  
22 procedures under chapter 43.88 RCW, but an appropriation is not  
23 required for expenditures. Moneys in the account may be used solely  
24 by the department for administering, implementing, and enforcing the  
25 requirements of this chapter. Funds in the account may not be  
26 diverted for any purpose or activity other than those specified in  
27 this section.

28 NEW SECTION. **Sec. 14.** MARKING REQUIREMENTS FOR BATTERIES. (1)  
29 Beginning January 1, 2028, a producer or retailer may only sell,  
30 distribute, or offer for sale in or into Washington a large format  
31 battery, covered battery, or battery-containing product that contains  
32 a battery that is designed or intended to be easily removable from  
33 the product, if the battery is:

34 (a) Marked with an identification of the producer of the battery,  
35 unless the battery is less than one-half inch in diameter or does not  
36 contain a surface whose length exceeds one-half inch; and

37 (b) Beginning January 1, 2030, marked with proper labeling to  
38 ensure proper collection and recycling, by identifying the chemistry

1 of the battery and including an indication that the battery should  
2 not be disposed of as household waste.

3 (2) A producer shall certify to its customers that the  
4 requirements of this section have been met, as provided in section 4  
5 of this act.

6 (3) The department may amend, by rule, the requirements of  
7 subsection (1) of this section to maintain consistency with the  
8 labeling requirements or voluntary standards for batteries  
9 established in federal law.

10 NEW SECTION. **Sec. 15.** REQUIREMENT TO USE BATTERY COLLECTION  
11 PROGRAMS. Effective July 1, 2027, for portable batteries and July 1,  
12 2029, for medium format batteries, or the first date on which an  
13 approved plan begins to be implemented under this chapter by a  
14 battery stewardship organization, whichever comes first:

15 (1) All persons, residents, businesses, and government,  
16 commercial, industrial, and retail facilities, and office buildings  
17 must dispose of unwanted covered batteries through the collection  
18 locations established by or included in the programs created by this  
19 chapter, except commercial, industrial, or government facilities and  
20 programs that utilize other responsible battery management  
21 arrangements that manage batteries in ways substantially similar to  
22 what this chapter requires of battery stewardship organizations.

23 (2) A person may not place covered batteries in waste containers  
24 for disposal at incinerators, waste to energy facilities, or  
25 landfills.

26 (3) A person may not place covered batteries in or on a container  
27 for mixed recyclables unless there is a separate location or  
28 compartment for the covered battery that complies with local  
29 government collection standards or guidelines.

30 (4) An owner or operator of a solid waste facility may not be  
31 found in violation of this section if the facility has posted in a  
32 conspicuous location a sign stating that covered batteries must be  
33 managed through collection locations established by a battery  
34 stewardship organization and are not accepted for disposal.

35 (5) A solid waste collector may not be found in violation of this  
36 section for a covered battery placed in a disposal container by the  
37 generator of the covered battery.



1        NEW SECTION.    **Sec. 16.**    DEPARTMENT ASSESSMENT OF LARGE FORMAT  
2 BATTERIES, MEDICAL DEVICES, AND BATTERY-CONTAINING PRODUCTS AND THEIR  
3 BATTERIES. (1) By July 1, 2027, the department must complete an  
4 assessment of the opportunities and challenges associated with the  
5 end-of-life management of batteries that are not covered batteries,  
6 including:

7        (a) Large format batteries;

8        (b) Batteries contained in medical devices, as specified in Title  
9 21 U.S.C. Sec. 360c as it existed as of the effective date of this  
10 section; and

11        (c) Batteries not intended or designed to be easily removed by a  
12 customer that are contained in battery-containing products, including  
13 medical devices, and in covered electronic products that are not  
14 managed under an approved plan implemented under chapter 70A.500 RCW.

15        (2) The department must consult with the department of commerce  
16 and interested stakeholders in completing the assessment, including  
17 consultation with overburdened communities and vulnerable populations  
18 identified by the department under chapter 70A.02 RCW. The assessment  
19 must identify any needed adjustments to the stewardship program  
20 requirements established in this chapter that are necessary to  
21 maximize public health, safety, and environmental benefits, such as  
22 battery reuse.

23        (3) The assessment must consider:

24        (a) The different categories and uses of batteries and battery-  
25 containing products listed in subsection (1) of this section;

26        (b) The current economic value and reuse or recycling potential  
27 of large format batteries or large format battery components and a  
28 summary of studies examining the environmental and equity  
29 implications of displacing demand for new rare earth materials,  
30 critical materials, and other conflict materials through the reuse  
31 and recycling of batteries;

32        (c) The current methods by which unwanted batteries and battery-  
33 containing products listed in subsection (1) of this section are  
34 managed in Washington and nearby states and provinces;

35        (d) Challenges posed by the potential collection, management, and  
36 transport of batteries and battery-containing products listed in  
37 subsection (1) of this section, including challenges associated with  
38 removing batteries that were not intended or designed to be easily  
39 removable from products, other than by the manufacturer; and

1 (e) Which criteria of this chapter should apply to batteries and  
2 battery-containing products listed in subsection (1) of this section  
3 in a manner that is identical or analogous to the requirements  
4 applicable to covered batteries.

5 (4) By October 1, 2027, the department must submit a report to  
6 the appropriate committees of the legislature containing the findings  
7 of the assessment required in this section.

8 NEW SECTION. **Sec. 17.** DEPARTMENT OF ECOLOGY RULE MAKING TO  
9 REQUIRE THE ESTABLISHMENT OF STEWARDSHIP PROGRAM PARTICIPATION  
10 REQUIREMENTS FOR LARGE FORMAT BATTERIES. (1) By January 1, 2030, the  
11 department may, but is not required to, adopt rules that require  
12 producers of large format batteries, battery-containing products,  
13 batteries in medical devices, and products with embedded batteries to  
14 participate in a stewardship program that achieves environmentally  
15 positive outcomes similar to those achieved by a battery stewardship  
16 program for medium format and portable batteries. As part of this  
17 rule, the department may apply some or all of the provisions of  
18 section 15 of this act to large format batteries.

19 (2) Any rules adopted by the department under this section must  
20 require producers of large format batteries, battery-containing  
21 products, batteries in medical devices, and products with embedded  
22 batteries to participate in a stewardship program by no earlier than  
23 July 1, 2031.

24 (3) In adopting rules, the department must consider the results  
25 of the assessment required under section 16 of this act and involve  
26 the expertise of the department's recycling development center  
27 created in chapter 70A.240 RCW.

28 (4) The department must delay or exclude categories of batteries  
29 or battery-containing products, including categories of large format  
30 batteries that are excluded from the definition of a covered battery  
31 in section 2 of this act, based on the results of the assessment  
32 required under section 16 of this act, from stewardship program  
33 requirements, if the department determines that stewardship program  
34 requirements are infeasible for a category of batteries or battery-  
35 containing products due to:

36 (a) An existing industry or other battery management system  
37 exists for the battery or battery-containing product category covered  
38 by the assessment in section 16 of this act that currently attains a  
39 rate of collection that exceeds 95 percent of the number of that

1 category of batteries sold in Washington each year, and the existing  
2 battery management system processes the batteries using  
3 environmentally sound management practices; or

4 (b) If delay or exclusion from program participation requirements  
5 is necessary to protect human health or the environment.

6 (5) The department must exclude from any rules adopted by the  
7 department under this section any large format batteries contained in  
8 or originating from electric vehicles if, by July 1, 2030, electric  
9 vehicle batteries are managed under state law in a manner that  
10 achieves similar outcomes to the program created in this chapter.

11 (6) In addition to the exemptions established in subsections (4)  
12 and (5) of this section, the department may exclude producers from  
13 some or all of the stewardship program requirements under the rules  
14 adopted by the department, based on other factors determined by the  
15 department.

16 NEW SECTION. **Sec. 18.** ANTITRUST. Producers or battery  
17 stewardship organizations acting on behalf of producers that prepare,  
18 submit, and implement a battery stewardship program plan pursuant to  
19 this chapter and who are thereby subject to regulation by the  
20 department are granted immunity from state laws relating to  
21 antitrust, restraint of trade, unfair trade practices, and other  
22 regulation of trade and commerce, for the limited purpose of  
23 planning, reporting, and operating a battery stewardship program,  
24 including:

25 (1) The creation, implementation, or management of a battery  
26 stewardship organization and any battery stewardship plan regardless  
27 of whether it is submitted, denied, or approved;

28 (2) The determination of the cost and structure of a battery  
29 stewardship plan; and

30 (3) The types or quantities of batteries being recycled or  
31 otherwise managed pursuant to this chapter.

32 **Sec. 19.** RCW 43.21B.110 and 2022 c 180 s 812 are each amended to  
33 read as follows:

34 (1) The hearings board shall only have jurisdiction to hear and  
35 decide appeals from the following decisions of the department, the  
36 director, local conservation districts, the air pollution control  
37 boards or authorities as established pursuant to chapter 70A.15 RCW,  
38 local health departments, the department of natural resources, the

1 department of fish and wildlife, the parks and recreation commission,  
2 and authorized public entities described in chapter 79.100 RCW:

3 (a) Civil penalties imposed pursuant to RCW 18.104.155,  
4 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070,  
5 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080,  
6 70A.65.200, 70A.455.090, 76.09.170, 77.55.440, 78.44.250, 88.46.090,  
7 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102  
8 and chapter 70A.--- RCW (the new chapter created in section 22 of  
9 this act).

10 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,  
11 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070,  
12 70A.245.020, 70A.65.200, 86.16.020, 88.46.070, 90.14.130, 90.46.250,  
13 90.48.120, and 90.56.330 and chapter 70A.--- RCW (the new chapter  
14 created in section 22 of this act).

15 (c) Except as provided in RCW 90.03.210(2), the issuance,  
16 modification, or termination of any permit, certificate, or license  
17 by the department or any air authority in the exercise of its  
18 jurisdiction, including the issuance or termination of a waste  
19 disposal permit, the denial of an application for a waste disposal  
20 permit, the modification of the conditions or the terms of a waste  
21 disposal permit, or a decision to approve or deny an application for  
22 a solid waste permit exemption under RCW 70A.205.260.

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

25 (e) Decisions of local health departments regarding the issuance  
26 and enforcement of permits to use or dispose of biosolids under RCW  
27 70A.226.090.

28 (f) Decisions of the department regarding waste-derived  
29 fertilizer or micronutrient fertilizer under RCW 15.54.820, and  
30 decisions of the department regarding waste-derived soil amendments  
31 under RCW 70A.205.145.

32 (g) Decisions of local conservation districts related to the  
33 denial of approval or denial of certification of a dairy nutrient  
34 management plan; conditions contained in a plan; application of any  
35 dairy nutrient management practices, standards, methods, and  
36 technologies to a particular dairy farm; and failure to adhere to the  
37 plan review and approval timelines in RCW 90.64.026.

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

1 (i) Decisions of the department of natural resources, the  
2 department of fish and wildlife, and the department that are  
3 reviewable under chapter 76.09 RCW, and the department of natural  
4 resources' appeals of county, city, or town objections under RCW  
5 76.09.050(7).

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

8 (k) Decisions of the department of fish and wildlife to issue,  
9 deny, condition, or modify a hydraulic project approval permit under  
10 chapter 77.55 RCW, to issue a stop work order, to issue a notice to  
11 comply, to issue a civil penalty, or to issue a notice of intent to  
12 disapprove applications.

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

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

19 (n) Decisions of the department of ecology that are appealable  
20 under RCW 70A.245.020 to set recycled minimum postconsumer content  
21 for covered products or to temporarily exclude types of covered  
22 products in plastic containers from minimum postconsumer recycled  
23 content requirements.

24 (o) Orders by the department of ecology under RCW 70A.455.080.

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

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

29 (b) Hearings conducted by the department pursuant to RCW  
30 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,  
31 70A.15.3110, and 90.44.180.

32 (c) Appeals of decisions by the department under RCW 90.03.110  
33 and 90.44.220.

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

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

1       **Sec. 20.** RCW 43.21B.300 and 2022 c 180 s 813 are each amended to  
2 read as follows:

3       (1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160,  
4 70A.205.280, 70A.300.090, 70A.20.050, 70A.245.040, 70A.245.050,  
5 70A.245.070, 70A.245.080, 70A.65.200, 70A.455.090, 88.46.090,  
6 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102  
7 and chapters 70A.355 and 70A.--- (the new chapter created in section  
8 22 of this act) RCW shall be imposed by a notice in writing, either  
9 by certified mail with return receipt requested or by personal  
10 service, to the person incurring the penalty from the department or  
11 the local air authority, describing the violation with reasonable  
12 particularity. For penalties issued by local air authorities, within  
13 30 days after the notice is received, the person incurring the  
14 penalty may apply in writing to the authority for the remission or  
15 mitigation of the penalty. Upon receipt of the application, the  
16 authority may remit or mitigate the penalty upon whatever terms the  
17 authority in its discretion deems proper. The authority may ascertain  
18 the facts regarding all such applications in such reasonable manner  
19 and under such rules as it may deem proper and shall remit or  
20 mitigate the penalty only upon a demonstration of extraordinary  
21 circumstances such as the presence of information or factors not  
22 considered in setting the original penalty.

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

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

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

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

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

37       (4) If the amount of any penalty is not paid to the department  
38 within 30 days after it becomes due and payable, the attorney  
39 general, upon request of the department, shall bring an action in the  
40 name of the state of Washington in the superior court of Thurston

1 county, or of any county in which the violator does business, to  
2 recover the penalty. If the amount of the penalty is not paid to the  
3 authority within 30 days after it becomes due and payable, the  
4 authority may bring an action to recover the penalty in the superior  
5 court of the county of the authority's main office or of any county  
6 in which the violator does business. In these actions, the procedures  
7 and rules of evidence shall be the same as in an ordinary civil  
8 action.

9 (5) All penalties recovered shall be paid into the state treasury  
10 and credited to the general fund except those penalties imposed  
11 pursuant to RCW 18.104.155, which shall be credited to the  
12 reclamation account as provided in RCW 18.104.155(7), RCW  
13 70A.15.3160, the disposition of which shall be governed by that  
14 provision, RCW 70A.245.040 and 70A.245.050, which shall be credited  
15 to the recycling enhancement account created in RCW 70A.245.100, RCW  
16 70A.300.090, which shall be credited to the model toxics control  
17 operating account created in RCW 70A.305.180, RCW 70A.65.200, which  
18 shall be credited to the climate investment account created in RCW  
19 70A.65.250, RCW 90.56.330, which shall be credited to the coastal  
20 protection fund created by RCW 90.48.390, and RCW 70A.355.070, which  
21 shall be credited to the underground storage tank account created by  
22 RCW 70A.355.090.

23 NEW SECTION. **Sec. 21.** A new section is added to chapter 82.04  
24 RCW to read as follows:

25 (1) This chapter does not apply to the receipts of a battery  
26 stewardship organization formed under chapter 70A.--- RCW (the new  
27 chapter created in section 22 of this act) from charges to  
28 participating producers under a battery stewardship program as  
29 provided in section 7 of this act.

30 (2) This section is not subject to the requirements of RCW  
31 82.32.805 and 82.32.808 and is not subject to an expiration date.

32 (3) The definitions in section 2 of this act apply throughout  
33 this section unless the context clearly requires otherwise.

34 NEW SECTION. **Sec. 22.** CODIFICATION. Sections 1 through 18 of  
35 this act constitute a new chapter in Title 70A RCW.

36 NEW SECTION. **Sec. 23.** SEVERABILITY. If any provision of this  
37 act or its application to any person or circumstance is held invalid,

1 the remainder of the act or the application of the provision to other  
2 persons or circumstances is not affected.

--- **END** ---