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**SECOND SUBSTITUTE SENATE BILL 5144**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Stanford, Nguyen, Cleveland, Frame, Hasegawa, Hunt, Keiser, Kuderer, Lovelett, Nobles, Pedersen, Rolfes, Valdez, and C. Wilson)

READ FIRST TIME 02/24/23.

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; creating a new section; 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 that contains  
16 or is packaged with rechargeable or primary batteries that are  
17 covered batteries.

18 (b) A "battery-containing product" does not include a covered  
19 electronic product under an approved plan implemented under chapter  
20 70A.500 RCW.

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

23 (a) Waste prevention and reduction;

24 (b) Reuse, when reuse is appropriate;

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

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

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

35 (4) "Collection rate" means a percentage, by weight, that a  
36 battery stewardship organization collects that is calculated by  
37 dividing the total weight of primary and rechargeable batteries  
38 collected during a calendar year by the average annual weight of  
39 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 lead acid battery weighing greater than 11 pounds;

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

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

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

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

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

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

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

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

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

1 more than 25 pounds and has a rating of no more than 2,000 watt-  
2 hours;

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

5 (12) "Portable battery" means the following primary or  
6 rechargeable covered batteries:

7 (a) For rechargeable batteries, a battery weighing no more than  
8 11 pounds and has a rating of no more than 300 watt-hours;

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

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

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

17 (i) For covered batteries:

18 (A) If the battery is sold under the brand of the battery  
19 manufacturer, the producer is the person that manufactures the  
20 battery;

21 (B) If the battery is sold under a retail brand or under a brand  
22 owned by a person other than the manufacturer, the producer is the  
23 brand owner;

24 (C) If there is no person to which (a)(i)(A) or (B) of this  
25 subsection applies, the producer is the person that is the licensee  
26 of a brand or trademark under which the battery is used in a  
27 commercial enterprise, sold, offered for sale, or distributed in or  
28 into this state, whether or not the trademark is registered in this  
29 state;

30 (D) If there is no person described in (a)(i)(A) through (C) of  
31 this subsection within the United States, the producer is the person  
32 who is the importer of record for the battery into the United States  
33 for use in a commercial enterprise that sells, offers for sale, or  
34 distributes the battery in this state;

35 (E) If there is no person described in (a)(i)(A) through (D) of  
36 this subsection with a commercial presence within the state, the  
37 producer is the person who first distributes the battery in or into  
38 this state.

39 (ii) For covered battery-containing products:

1 (A) If the battery-containing product is sold under the brand of  
2 the product manufacturer, the producer is the person that  
3 manufactures the product;

4 (B) If the battery-containing product is sold under a retail  
5 brand or under a brand owned by a person other than the manufacturer,  
6 the producer is the brand owner;

7 (C) If there is no person to which (a)(ii)(A) or (B) of this  
8 subsection applies, the producer is the person that is the licensee  
9 of a brand or trademark under which the product is used in a  
10 commercial enterprise, sold, offered for sale, or distributed in or  
11 into this state, whether or not the trademark is registered in this  
12 state;

13 (D) If there is no person described in (a)(ii)(A) through (C) of  
14 this subsection within the United States, the producer is the person  
15 who is the importer of record for the product into the United States  
16 for use in a commercial enterprise that sells, offers for sale, or  
17 distributes the product in this state;

18 (E) If there is no person described in (a)(ii)(A) through (D) of  
19 this subsection with a commercial presence within the state, the  
20 producer is the person who first distributes the product in or into  
21 this state;

22 (F) A producer does not include any person who only manufactures,  
23 sells, offers for sale, distributes, or imports into the state a  
24 battery-containing product if the only batteries used by the battery-  
25 containing product are supplied by a producer that has joined a  
26 registered battery stewardship organization as the producer for that  
27 covered battery under this chapter and has provided written  
28 certification of that membership to both the producer of the covered  
29 battery-containing product and the battery stewardship organization  
30 of which the battery producer is a member.

31 (b) A person is the "producer" of a covered battery or covered  
32 battery-containing product sold, offered for sale, or distributed in  
33 or into this state, as defined in (a) of this subsection, except  
34 where another party has contractually accepted responsibility as a  
35 responsible producer and has joined a registered battery stewardship  
36 organization as the producer for that covered battery or covered  
37 battery-containing product under this chapter.

38 (15) "Program" means a program implemented by a battery  
39 stewardship organization consistent with an approved battery  
40 stewardship plan.

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

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

6 (a) Combustion;

7 (b) Incineration;

8 (c) Energy generation;

9 (d) Fuel production; or

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

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

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

21 (20) "Urban cluster" means areas of population density of 2,500  
22 to 50,000, as defined by the United States census bureau as of  
23 January 1, 2021.

24 (21) "Urbanized area" means areas of high population density with  
25 populations of 50,000 or greater, as defined by the United States  
26 census bureau as of January 1, 2021.

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

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

37 NEW SECTION. **Sec. 4.** ROLE OF RETAILERS. (1) Beginning July 1,  
38 2027, for portable batteries, and July 1, 2029, for medium format

1 batteries, a retailer may not sell, offer for sale, or otherwise make  
2 available for sale a covered battery or battery-containing product  
3 unless the producer of the covered battery or battery-containing  
4 product certifies to the retailer that the producer participates in a  
5 battery stewardship organization whose plan has been approved by the  
6 department.

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

15 (3) Retailers of covered batteries or battery-containing products  
16 are not required to make retail locations available to serve as  
17 collection locations for a stewardship program operated by a battery  
18 stewardship organization. Retailers that serve as a collection  
19 location must comply with the requirements for collection locations,  
20 consistent with section 8 of this act.

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

29 (5) A retailer selling or offering covered batteries or battery-  
30 containing products for sale in Washington may provide information,  
31 provided to the retailer by the battery stewardship organization,  
32 regarding available end-of-life management options for covered  
33 batteries collected by the battery stewardship organization. The  
34 information that a battery stewardship organization must make  
35 available to retailers for voluntary use by retailers must include,  
36 but is not limited to, in-store signage, written materials, and other  
37 promotional materials that retailers may use to inform customers of  
38 the available end-of-life management options for covered batteries  
39 collected by the battery stewardship organization.

1 (6) Retailers, producers, or battery stewardship organizations  
2 may not charge a specific point-of-sale fee to consumers to cover the  
3 administrative or operational costs of the battery stewardship  
4 organization or the battery stewardship program.

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

16 (a) Lists and provides contact information for each producer,  
17 battery brand, and battery-containing product brand covered in the  
18 plan;

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

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

26 (d) Describes the education and communications strategy being  
27 implemented to effectively promote participation in the approved  
28 covered battery stewardship program and provide the information  
29 necessary for effective participation of consumers, retailers, and  
30 others;

31 (e) Describes how the battery stewardship organization will make  
32 available to retailers, for voluntary use, in-store signage, written  
33 materials, and other promotional materials that retailers may use to  
34 inform customers of the available end-of-life management options for  
35 covered batteries collected by the battery stewardship organization;

36 (f) A list of promotional activities to be undertaken, and the  
37 identification of consumer awareness goals and strategies that the  
38 program will employ to achieve these goals after the program begins  
39 to be implemented;



1 (g) Includes collection site safety training procedures related  
2 to covered battery collection activities at collection sites,  
3 including appropriate protocols to reduce risks of spills or fires  
4 and response protocols in the event of a spill or fire, and a  
5 protocol for safe management of damaged batteries that are returned  
6 to collection sites;

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

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

21 (j) A description of how the program will collect all covered  
22 battery chemistries and brands on a free, continuous, convenient,  
23 visible, and accessible basis, and consistent with the requirements  
24 of section 8 of this act, including a description of how the  
25 statewide convenience standard will be met and a list of collection  
26 sites, including the address and latitude and longitude of collection  
27 sites;

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

31 (l) Collection goals for each of the first three years of  
32 implementation of the battery stewardship plan that are based on the  
33 estimated total weight of primary and rechargeable covered batteries  
34 that have been sold in the state in the previous three calendar years  
35 by the producers participating in the battery stewardship plan;

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

39 (i) An environmentally sound and socially just manner at  
40 facilities operating with human health and environmental protection

1 standards that are broadly equivalent to or better than those  
2 required in the United States and other countries that are members of  
3 the battery stewardship organization for economic cooperation and  
4 development; and

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

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

12 (o) Proposes goals for increasing public awareness of the  
13 program, including subgoals applicable to public awareness of the  
14 program in vulnerable populations and overburdened communities  
15 identified by the department under chapter 70A.02 RCW, and describes  
16 how the public education and outreach components of the program under  
17 section 9 of this act will be implemented.

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

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

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

30 (c) No less than every five years.

31 (3) If required by the department, a battery stewardship  
32 organization must provide plan amendments to the department for  
33 approval:

34 (a) When proposing changes to the performance goals under section  
35 6 of this act;

36 (b) When there is a change to the method of financing plan  
37 implementation under section 7 of this act. This does not include  
38 changes to the fees or fee structure established in the plan;

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

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

6 (4) As part of a quarterly update, a battery stewardship  
7 organization must notify the department after a producer begins or  
8 ceases to participate in a battery stewardship organization. The  
9 quarterly update submitted to the department must also include a  
10 current list of the producers and brands participating in the plan.

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

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

- 23 (a) The rate of battery collection for recycling in Washington;  
24 (b) The recycling efficiency of the program; and  
25 (c) Public awareness of the program.

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

- 28 (a) Target collection rates;  
29 (b) Target recycling efficiency rates of at least 60 percent for  
30 rechargeable batteries and at least 70 percent for primary batteries;  
31 and

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

35 NEW SECTION. **Sec. 7.** STEWARDSHIP PROGRAM COMPONENTS—FUNDING.  
36 (1) Each battery stewardship organization must ensure adequate  
37 funding is available to fully implement approved battery stewardship

1 plans, including the implementation of aspects of the plan  
2 addressing:

- 3 (a) Battery collection, transporting, and processing;
- 4 (b) Education and outreach;
- 5 (c) Program evaluation; and
- 6 (d) Payment of the administrative fees to the department under  
7 section 11 of this act.

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

- 17 (a) Encourage designs intended to facilitate reuse and recycling;
- 18 (b) Encourage the use of recycled content;
- 19 (c) Discourage the use of problematic materials that increase  
20 system costs of managing covered products; and
- 21 (d) Encourage other design attributes that reduce the  
22 environmental impacts of covered products.

23 (3)(a) Each battery stewardship organization is responsible for  
24 all costs of participating covered battery collection,  
25 transportation, processing, education, administration, agency  
26 reimbursement, recycling, and end-of-life management in accordance  
27 with the battery management hierarchy and environmentally sound  
28 management practices.

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

31 (c) A battery stewardship organization is not authorized to  
32 reduce or cease collection, education and outreach, or other  
33 activities implemented under an approved plan based on achievement of  
34 program performance goals.

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

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

5 (c) A battery stewardship organization must include in its  
6 battery stewardship plan a template of the service agreement and any  
7 other forms, contracts, or other documents for use in distribution of  
8 reimbursements. The service agreement template must be developed with  
9 local government input. The entities seeking or receiving  
10 reimbursement from the battery stewardship organization are not  
11 required to use the template agreement included in the program plan  
12 and are not limited to the terms of the template agreement included  
13 in the program plan.

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

28 (2)(a) For each collection site utilized by the program, each  
29 battery stewardship organization must provide suitable collection  
30 containers for covered batteries that are segregated from other solid  
31 waste or make mutually agreeable alternative arrangements for the  
32 collection of batteries at the site. The location of collection  
33 containers at each collection site used by the program must be within  
34 view of a responsible person and must be accompanied by signage made  
35 available to the collection site by the battery stewardship  
36 organization that informs customers regarding the end-of-life  
37 management options for batteries provided by the collection site  
38 under this chapter. Each collection site must adhere to the

1 operations manual and other safety information provided to the  
2 collection site by the battery stewardship organization.

3 (b) Medium format batteries may only be collected at household  
4 hazardous waste collection locations or other locations that are  
5 staffed by persons who are certified to handle and ship hazardous  
6 materials under federal regulations adopted by the United States  
7 department of transportation pipeline and hazardous materials safety  
8 administration.

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

12 (ii) Each battery stewardship organization must provide for  
13 collection of damaged and defective batteries in each county of the  
14 state, either through collection sites or collection events with  
15 qualified staff as specified in (c) (i) of this subsection. Collection  
16 events should be provided periodically throughout the year where  
17 practicable, but must be provided at least once per year at a  
18 minimum.

19 (iii) As used in this subsection, "damaged and defective  
20 batteries" means batteries that have been damaged or identified by  
21 the manufacturer as being defective for safety reasons, that have the  
22 potential of producing a dangerous evolution of heat, fire, or short  
23 circuit, as referred to in 49 C.F.R. Sec. 173.185(f) as of January 1,  
24 2023.

25 (3) (a) Each battery stewardship organization implementing a  
26 battery stewardship plan shall ensure statewide collection  
27 opportunities for all covered batteries. Battery stewardship  
28 organizations shall coordinate activities with other program  
29 operators, including covered battery collection and recycle programs  
30 and electronic waste recyclers, with regard to the proper management  
31 or recycling of collected covered batteries, for purposes of  
32 providing the efficient delivery of services and avoiding unnecessary  
33 duplication of effort and expense. Statewide collection opportunities  
34 must be determined by geographic information modeling that considers  
35 permanent collection sites. A program may rely, in part, on  
36 collection events to supplement the permanent collection services  
37 required in (a) and (b) of this subsection. However, only permanent  
38 collection services specified in (a) and (b) of this subsection  
39 qualify towards the satisfaction of the requirements of this  
40 subsection.

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

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

7 (ii) The establishment of collection sites that are accessible  
8 and convenient to overburdened communities identified by the  
9 department under chapter 70A.02 RCW, in an amount that is roughly  
10 proportional to the number and population of overburdened communities  
11 identified by the department under chapter 70A.02 RCW relative to the  
12 population or size of the state as a whole;

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

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

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

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

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

31 (ii) Reasonable geographic dispersion of collection sites  
32 throughout the state;

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

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

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

1 A battery stewardship organization must ensure that there is a  
2 collection site or annual collection event in each county of the  
3 state. Collection events should be provided periodically throughout  
4 the year where practicable, but must be provided at least once per  
5 year at a minimum.

6 (4) (a) Stewardship programs must use existing public and private  
7 waste collection services and facilities, including battery  
8 collection locations that are established through other battery  
9 collection services, transporters, consolidators, processors,  
10 retailers, and curbside services, where cost-effective, mutually  
11 agreeable, and otherwise practicable.

12 (b) Stewardship programs must use as a collection site for  
13 portable batteries any retailer, wholesaler, municipality, solid  
14 waste management facility, or other entity that meets the criteria  
15 for collection locations in the approved plan, upon the submission of  
16 a request by the entity to the battery stewardship organization to  
17 serve as a collection site.

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

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

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

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

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

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

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

35 (6) Batteries collected by the program must be managed consistent  
36 with the battery management hierarchy. Lower priority end-of-life  
37 battery management options on the battery management hierarchy may be  
38 used by a program only when a battery stewardship organization  
39 documents to the department that all higher priority battery



1 management options on the battery management hierarchy are not  
2 technologically feasible or economically practical.

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

7 (a) And maintenance of a website;  
8 (b) And distribution of periodic press releases and articles;  
9 (c) And placement of advertisements for use on social media or  
10 other relevant media platforms;

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

15 (e) And distribution of collection site safety training  
16 procedures that are in compliance with state law to collection sites  
17 to help ensure proper management of covered batteries at collection  
18 locations; and

19 (f) And implementation of outreach and educational resources  
20 targeted to overburdened communities and vulnerable populations  
21 identified by the department under chapter 70A.02 RCW that are  
22 conceptually, linguistically, and culturally accurate for the  
23 communities served and reach the state's diverse ethnic populations,  
24 including through meaningful consultation with communities that bear  
25 disproportionately higher levels of adverse environmental and social  
26 justice impacts.

27 (2) Each battery stewardship organization must provide:

28 (a) Consumer-focused educational promotional materials to each  
29 collection location used by the program and accessible by customers  
30 of retailers that sell covered batteries or battery-containing  
31 products; and

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

36 (3) (a) Each battery stewardship organization must provide  
37 educational materials to the operator of each collection site for the  
38 management of recalled batteries, which are not intended to be part

1 of collection as provided under section 8 of this act, to help  
2 facilitate transportation and processing of recalled batteries.

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

6 (4) Upon request by a retailer, the battery stewardship  
7 organization must provide the retailer educational materials  
8 describing collection opportunities for batteries.

9 (5) If multiple battery stewardship organizations are  
10 implementing plans approved by the department, the battery  
11 stewardship organizations must coordinate in carrying out their  
12 education and outreach responsibilities under this section and must  
13 include in their annual reports to the department under section 10 of  
14 this act a summary of their coordinated education and outreach  
15 efforts.

16 (6) During the first year of program implementation and every  
17 five years thereafter, each battery stewardship organization must  
18 carry out a survey of public awareness regarding the requirements of  
19 the program established under this chapter, including the provisions  
20 of section 15 of this act. Each battery stewardship organization must  
21 share the results of the public awareness surveys with the  
22 department.

23 NEW SECTION. **Sec. 10.** REPORTING REQUIREMENTS. (1) By June 1,  
24 2028, and each June 1st thereafter, each battery stewardship  
25 organization must submit an annual report to the department covering  
26 the preceding calendar year of battery stewardship plan  
27 implementation. The report must include:

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

32 (b) A summary financial statement documenting the financing of a  
33 battery stewardship organization's program and an analysis of program  
34 costs and expenditures, including an analysis of the program's  
35 expenses, such as collection, transportation, recycling, education,  
36 and administrative overhead. The summary financial statement must be  
37 sufficiently detailed to provide transparency that funds collected  
38 from producers as a result of their activities in Washington are  
39 spent on program implementation in Washington. Battery stewardship

1 organizations implementing similar battery stewardship programs in  
2 multiple states may submit a financial statement including all  
3 covered states, as long as the statement breaks out financial  
4 information pertinent to Washington;

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

7 (d) The weight of materials recycled from covered batteries  
8 collected under the program, in total, and by method of battery  
9 recycling;

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

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

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

20 (h) The collection rate achieved under the program, including a  
21 description of how this collection rate was calculated;

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

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

29 (k) A description of education and outreach efforts supporting  
30 plan implementation including, but not limited to, a summary of  
31 education and outreach provided to consumers, collection sites,  
32 manufacturers, distributors, and retailers by the program operator  
33 for the purpose of promoting the collection and recycling of covered  
34 batteries, a description of how that education and outreach met the  
35 requirements of section 9 of this act, samples of education and  
36 outreach materials, a summary of coordinated education and outreach  
37 efforts with any other battery stewardship organizations implementing  
38 a plan approved by the department, and a summary of any changes made  
39 during the previous calendar year to education and outreach  
40 activities;

1 (1) A list of all collection locations and accompanying latitude  
2 and longitude data and an address for each listed site, and an up-to-  
3 date map indicating the location of all collection sites used to  
4 implement the program, with links to appropriate websites where there  
5 are existing websites associated with a location;

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

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

11 (o) An evaluation of the effectiveness of education and outreach  
12 activities.

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

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

20 (a) Whether the facility is located domestically, in an  
21 organization for economic cooperation and development country, or in  
22 a country that meets organization for economic cooperation and  
23 development operating standards; and

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

27 (4) If a battery stewardship organization has disposed of covered  
28 batteries through energy recovery, incineration, or landfilling during  
29 the preceding calendar year of program implementation, the annual  
30 report must specify the steps that the battery stewardship  
31 organization will take to make the recycling of covered batteries  
32 cost-effective, where possible, or to otherwise increase battery  
33 recycling rates achieved by the battery stewardship organization.

34 (5) A producer or battery stewardship organization that submits  
35 information or records to the department under this chapter may  
36 request that the information or records be made available only for  
37 the confidential use of the department, the director of the  
38 department, or the appropriate division of the department. The  
39 director of the department must consider the request and if this  
40 action is not detrimental to the public interest and is otherwise in

1 accordance with the policies and purposes of chapter 43.21A RCW, the  
2 director must grant the request for the information to remain  
3 confidential as authorized in RCW 43.21A.160.

4 NEW SECTION. **Sec. 11.** FEE AND DEPARTMENT OF ECOLOGY ROLE. (1)  
5 The department must adopt rules as necessary for the purpose of  
6 implementing, administering, and enforcing this chapter. The  
7 department must by rule establish fees, to be paid annually by a  
8 battery stewardship organization, that are adequate to cover the  
9 department's full costs of implementing, administering, and enforcing  
10 this chapter. If the department adopts rules that require producers  
11 of certain large format batteries or other battery categories  
12 addressed in sections 16 and 17 of this act to participate in a  
13 battery stewardship organization regulated by the department, the  
14 department may establish fees to be paid annually by a battery  
15 stewardship organization that are adequate to cover the department's  
16 full costs of implementing, administering, and enforcing the  
17 requirements of this chapter applicable to those batteries. All fees  
18 must be based on costs related to implementing, administering, and  
19 enforcing this chapter, not to exceed expenses incurred by the  
20 department for these activities.

21 (2) The responsibilities of the department in implementing,  
22 administering, and enforcing this chapter include, but are not  
23 limited to:

24 (a) Reviewing submitted stewardship plans and plan amendments and  
25 making determinations as to whether to approve the plan or plan  
26 amendment;

27 (i) The department must provide a letter of approval for the plan  
28 or plan amendment if it provides for the establishment of a  
29 stewardship program that meets the requirements of sections 3 through  
30 9 of this act;

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

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

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

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

8 (ii) Upon the date the first plan is approved, the department  
9 must post on its website a list of producers and their brands for  
10 which the department has approved a plan. The department must update  
11 the list of producers and brands participating under an approved  
12 program plan based on information provided to the department from  
13 battery stewardship organizations; and

14 (d) Providing technical assistance to producers and retailers  
15 related to the requirements of this chapter and issuing orders or  
16 imposing civil penalties authorized under section 12 of this act  
17 where the technical assistance efforts do not lead to compliance by a  
18 producer or retailer.

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

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

26 (1)(a) A battery stewardship organization implementing an approved  
27 plan may bring a civil action or actions to recover costs, damages,  
28 and fees, as specified in this section, from a producer who sells or  
29 otherwise makes available in Washington covered batteries, battery-  
30 containing products, or large format batteries not included in an  
31 approved plan in violation of the requirements of this chapter. An  
32 action under this section may be brought against one or more  
33 defendants. An action may only be brought against a defendant  
34 producer when the stewardship program incurs costs in Washington,  
35 including reasonable incremental administrative and program  
36 promotional costs, in excess of \$1,000 to collect, transport, and  
37 recycle or otherwise dispose of the covered batteries, battery-  
38 containing products, or large format batteries of a nonparticipating  
39 producer.

1 (b) A battery stewardship organization implementing an approved  
2 stewardship plan may bring a civil action against another battery  
3 stewardship organization that under performs on its battery  
4 collection obligations under this chapter by failing to collect and  
5 provide for the end-of-life management of batteries in an amount  
6 roughly equivalent to costs imposed on the plaintiff battery  
7 stewardship organization by virtue of the failures of the defendants  
8 and legal fees and expenses.

9 (c) The remedies provided in this subsection are in addition to  
10 the enforcement authority of the department and do not limit and are  
11 not limited by a decision by the department to impose a civil penalty  
12 or issue an order under subsection (2) of this section. The  
13 department is not required to audit, participate in, or provide  
14 assistance to a battery stewardship organization pursuing a civil  
15 action authorized under this subsection.

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

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

23 (c) Whenever on the basis of any information the department  
24 determines that a person has violated or is in violation of this  
25 chapter, the department may issue an order requiring compliance. A  
26 person who fails to take corrective action as specified in a  
27 compliance order is liable for a civil penalty as provided in (b) of  
28 this subsection, without receiving a written warning prescribed in  
29 (e) of this subsection.

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

33 (e) Prior to imposing penalties under this section, the  
34 department must provide a producer, retailer, or battery stewardship  
35 organization with a written warning for the first violation by the  
36 producer, retailer, or battery stewardship organization of the  
37 requirements of this chapter. The written warning must inform a  
38 producer, retailer, or battery stewardship organization that it must  
39 participate in an approved plan or otherwise come into compliance  
40 with the requirements of this chapter within 30 days of the notice. A

1 producer, retailer, or battery stewardship organization that violates  
2 a provision of this chapter after the initial written warning may be  
3 assessed a penalty as provided in this subsection.

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

7 (4) No penalty may be assessed on an individual or resident for  
8 the improper disposal of covered batteries as described in section 15  
9 of this act in a noncommercial or residential setting.

10 NEW SECTION. **Sec. 13.** RESPONSIBLE BATTERY MANAGEMENT ACCOUNT.

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

23 NEW SECTION. **Sec. 14.** MARKING REQUIREMENTS FOR BATTERIES. (1)

24 Beginning January 1, 2028, a producer or retailer may only sell,  
25 distribute, or offer for sale in or into Washington a large format  
26 battery, covered battery, or battery-containing product that contains  
27 a battery that is designed or intended to be easily removable from  
28 the product, if the battery is:

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

32 (b) Beginning January 1, 2030, marked with proper labeling to  
33 ensure proper collection and recycling, by identifying the chemistry  
34 of the battery and including an indication that the battery should  
35 not be disposed of as household waste.

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



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

5 NEW SECTION. **Sec. 15.** REQUIREMENT TO USE BATTERY COLLECTION  
6 PROGRAMS. Effective July 1, 2027, for portable batteries and July 1,  
7 2029, for medium format batteries, or the first date on which an  
8 approved plan begins to be implemented under this chapter by a  
9 battery stewardship organization, whichever comes first:

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

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

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

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

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

33 NEW SECTION. **Sec. 16.** DEPARTMENT ASSESSMENT OF LARGE FORMAT  
34 BATTERIES, MEDICAL DEVICES, LEAD ACID BATTERIES, AND BATTERY-  
35 CONTAINING PRODUCTS AND THEIR BATTERIES. (1) By July 1, 2027, the  
36 department must complete an assessment of the opportunities and  
37 challenges associated with the end-of-life management of batteries  
38 that are not covered batteries, including:

1 (a) Large format batteries;

2 (b) Lead acid batteries that are greater than 11 pounds or are  
3 not subject to the provisions of RCW 70A.205.505 through 70A.205.530;

4 (c) Batteries contained in medical devices, as specified in Title  
5 21 U.S.C. Sec. 360c as it existed as of the effective date of this  
6 section; and

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

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

19 (3) The assessment must consider:

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

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

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

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

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

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

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

16 (2) Any rules adopted by the department under this section must  
17 require producers of batteries and battery-containing products  
18 assessed in section 16 of this act to participate in a stewardship  
19 program by no earlier than July 1, 2031.

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

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

32 (a) An existing industry or other battery management system  
33 exists for the battery or battery-containing product category covered  
34 by the assessment in section 16 of this act that currently attains a  
35 rate of collection that exceeds 95 percent of the number of that  
36 category of batteries sold in Washington each year, and the existing  
37 battery management system processes the batteries using  
38 environmentally sound management practices; or

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

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

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

13 NEW SECTION. **Sec. 18.** DEPARTMENT OF ECOLOGY RECOMMENDATIONS FOR  
14 MANAGEMENT OF ELECTRIC VEHICLE BATTERIES. (1) By November 30, 2023,  
15 the department of ecology must report to the appropriate committees  
16 of the legislature on preliminary policy recommendations for the  
17 collection and management of electric vehicle batteries. By April 30,  
18 2024, the department of ecology must report to the appropriate  
19 committees of the legislature on final policy recommendations for the  
20 collection and management of electric vehicle batteries.

21 (2) In developing the recommendations under subsection (1) of  
22 this section, the department of ecology must:

23 (a) Solicit input from representatives of automotive wrecking and  
24 salvage yards, solid waste collection and processing companies, local  
25 governments, environmental organizations, electric vehicle  
26 manufacturers, and any other interested parties; and

27 (b) Examine best practices in other states and jurisdictions.

28 NEW SECTION. **Sec. 19.** ANTITRUST. Producers or battery  
29 stewardship organizations acting on behalf of producers that prepare,  
30 submit, and implement a battery stewardship program plan pursuant to  
31 this chapter and who are thereby subject to regulation by the  
32 department are granted immunity from state laws relating to  
33 antitrust, restraint of trade, unfair trade practices, and other  
34 regulation of trade and commerce, for the limited purpose of  
35 planning, reporting, and operating a battery stewardship program,  
36 including:

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

4 (2) The determination of the cost and structure of a battery  
5 stewardship plan; and

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

8 NEW SECTION. **Sec. 20.** AUTHORITY OF THE UTILITIES AND  
9 TRANSPORTATION COMMISSION. Nothing in this chapter changes or limits  
10 the authority of the Washington utilities and transportation  
11 commission to regulate collection of solid waste, including curbside  
12 collection of residential recyclable materials, nor does this chapter  
13 change or limit the authority of a city or town to provide the  
14 service itself or by contract under RCW 81.77.020.

15 **Sec. 21.** RCW 43.21B.110 and 2022 c 180 s 812 are each amended to  
16 read as follows:

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

24 (a) Civil penalties imposed pursuant to RCW 18.104.155,  
25 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070,  
26 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080,  
27 70A.65.200, 70A.455.090, 76.09.170, 77.55.440, 78.44.250, 88.46.090,  
28 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102  
29 and chapter 70A.--- RCW (the new chapter created in section 24 of  
30 this act).

31 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,  
32 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070,  
33 70A.245.020, 70A.65.200, 86.16.020, 88.46.070, 90.14.130, 90.46.250,  
34 90.48.120, and 90.56.330 and chapter 70A.--- RCW (the new chapter  
35 created in section 24 of this act).

36 (c) Except as provided in RCW 90.03.210(2), the issuance,  
37 modification, or termination of any permit, certificate, or license  
38 by the department or any air authority in the exercise of its

1 jurisdiction, including the issuance or termination of a waste  
2 disposal permit, the denial of an application for a waste disposal  
3 permit, the modification of the conditions or the terms of a waste  
4 disposal permit, or a decision to approve or deny an application for  
5 a solid waste permit exemption under RCW 70A.205.260.

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

8 (e) Decisions of local health departments regarding the issuance  
9 and enforcement of permits to use or dispose of biosolids under RCW  
10 70A.226.090.

11 (f) Decisions of the department regarding waste-derived  
12 fertilizer or micronutrient fertilizer under RCW 15.54.820, and  
13 decisions of the department regarding waste-derived soil amendments  
14 under RCW 70A.205.145.

15 (g) Decisions of local conservation districts related to the  
16 denial of approval or denial of certification of a dairy nutrient  
17 management plan; conditions contained in a plan; application of any  
18 dairy nutrient management practices, standards, methods, and  
19 technologies to a particular dairy farm; and failure to adhere to the  
20 plan review and approval timelines in RCW 90.64.026.

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

24 (i) Decisions of the department of natural resources, the  
25 department of fish and wildlife, and the department that are  
26 reviewable under chapter 76.09 RCW, and the department of natural  
27 resources' appeals of county, city, or town objections under RCW  
28 76.09.050(7).

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

31 (k) Decisions of the department of fish and wildlife to issue,  
32 deny, condition, or modify a hydraulic project approval permit under  
33 chapter 77.55 RCW, to issue a stop work order, to issue a notice to  
34 comply, to issue a civil penalty, or to issue a notice of intent to  
35 disapprove applications.

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

38 (m) Decisions of an authorized public entity under RCW 79.100.010  
39 to take temporary possession or custody of a vessel or to contest the

1 amount of reimbursement owed that are reviewable by the hearings  
2 board under RCW 79.100.120.

3 (n) Decisions of the department of ecology that are appealable  
4 under RCW 70A.245.020 to set recycled minimum postconsumer content  
5 for covered products or to temporarily exclude types of covered  
6 products in plastic containers from minimum postconsumer recycled  
7 content requirements.

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

9 (2) The following hearings shall not be conducted by the hearings  
10 board:

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

13 (b) Hearings conducted by the department pursuant to RCW  
14 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,  
15 70A.15.3110, and 90.44.180.

16 (c) Appeals of decisions by the department under RCW 90.03.110  
17 and 90.44.220.

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

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

23 **Sec. 22.** RCW 43.21B.300 and 2022 c 180 s 813 are each amended to  
24 read as follows:

25 (1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160,  
26 70A.205.280, 70A.300.090, 70A.20.050, 70A.245.040, 70A.245.050,  
27 70A.245.070, 70A.245.080, 70A.65.200, 70A.455.090, 88.46.090,  
28 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102  
29 and chapters 70A.355 and 70A.--- (the new chapter created in section  
30 24 of this act) RCW shall be imposed by a notice in writing, either  
31 by certified mail with return receipt requested or by personal  
32 service, to the person incurring the penalty from the department or  
33 the local air authority, describing the violation with reasonable  
34 particularity. For penalties issued by local air authorities, within  
35 30 days after the notice is received, the person incurring the  
36 penalty may apply in writing to the authority for the remission or  
37 mitigation of the penalty. Upon receipt of the application, the  
38 authority may remit or mitigate the penalty upon whatever terms the  
39 authority in its discretion deems proper. The authority may ascertain

1 the facts regarding all such applications in such reasonable manner  
2 and under such rules as it may deem proper and shall remit or  
3 mitigate the penalty only upon a demonstration of extraordinary  
4 circumstances such as the presence of information or factors not  
5 considered in setting the original penalty.

6 (2) Any penalty imposed under this section may be appealed to the  
7 pollution control hearings board in accordance with this chapter if  
8 the appeal is filed with the hearings board and served on the  
9 department or authority 30 days after the date of receipt by the  
10 person penalized of the notice imposing the penalty or 30 days after  
11 the date of receipt of the notice of disposition by a local air  
12 authority of the application for relief from penalty.

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

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

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

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

20 (4) If the amount of any penalty is not paid to the department  
21 within 30 days after it becomes due and payable, the attorney  
22 general, upon request of the department, shall bring an action in the  
23 name of the state of Washington in the superior court of Thurston  
24 county, or of any county in which the violator does business, to  
25 recover the penalty. If the amount of the penalty is not paid to the  
26 authority within 30 days after it becomes due and payable, the  
27 authority may bring an action to recover the penalty in the superior  
28 court of the county of the authority's main office or of any county  
29 in which the violator does business. In these actions, the procedures  
30 and rules of evidence shall be the same as in an ordinary civil  
31 action.

32 (5) All penalties recovered shall be paid into the state treasury  
33 and credited to the general fund except those penalties imposed  
34 pursuant to RCW 18.104.155, which shall be credited to the  
35 reclamation account as provided in RCW 18.104.155(7), RCW  
36 70A.15.3160, the disposition of which shall be governed by that  
37 provision, RCW 70A.245.040 and 70A.245.050, which shall be credited  
38 to the recycling enhancement account created in RCW 70A.245.100, RCW  
39 70A.300.090, which shall be credited to the model toxics control  
40 operating account created in RCW 70A.305.180, RCW 70A.65.200, which



1 shall be credited to the climate investment account created in RCW  
2 70A.65.250, RCW 90.56.330, which shall be credited to the coastal  
3 protection fund created by RCW 90.48.390, and RCW 70A.355.070, which  
4 shall be credited to the underground storage tank account created by  
5 RCW 70A.355.090.

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

8 (1) This chapter does not apply to the receipts of a battery  
9 stewardship organization formed under chapter 70A.--- RCW (the new  
10 chapter created in section 24 of this act) from charges to  
11 participating producers under a battery stewardship program as  
12 provided in section 7 of this act.

13 (2) This section is not subject to the requirements of RCW  
14 82.32.805 and 82.32.808 and is not subject to an expiration date.

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

17 NEW SECTION. **Sec. 24.** CODIFICATION. Sections 1 through 17, 19,  
18 and 20 of this act constitute a new chapter in Title 70A RCW.

19 NEW SECTION. **Sec. 25.** SEVERABILITY. If any provision of this  
20 act or its application to any person or circumstance is held invalid,  
21 the remainder of the act or the application of the provision to other  
22 persons or circumstances is not affected.

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