
SECOND SUBSTITUTE SENATE BILL 5143

State of Washington

52nd Legislature

1991 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Metcalf, Murray and Conner).

Read first time March 11, 1991.

1 AN ACT Relating to recycling; amending RCW 43.19.538; adding a new
2 section to chapter 43.78 RCW; adding a new section to chapter 47.28
3 RCW; adding a new section to chapter 19.27 RCW; adding a new section to
4 Title 28A RCW; adding a new chapter to Title 43 RCW; creating new
5 sections; and repealing RCW 43.19.537.

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

7 NEW SECTION. **Sec. 1.** FINDINGS AND INTENT. (1) The legislature
8 finds that:

9 (a) Washington state citizens have demonstrated enormous support
10 for recycling programs, resulting in a state-wide recycling rate of
11 twenty-eight percent of solid waste generated in 1988, the highest rate
12 in the country.

13 (b) Additional programs for collection of recyclable products will
14 further increase this recycling rate toward Washington's state-wide
15 goal of fifty percent by 1995.

1 (c) The success of Washington's recycling effort cannot be measured
2 by the collection of recyclable materials alone, because the full cycle
3 in recycling requires, in addition to collection, the processing,
4 manufacturing, sale, and eventual use of recycled content products.

5 (d) Unless there is sufficient market demand for recycled
6 products, recycling collection programs will ultimately fail to achieve
7 the objective of diverting large portions of the waste stream from
8 landfills and incinerators.

9 (e) The collection, sorting, processing, and remanufacturing of
10 recyclable materials involves new technologies and management
11 techniques, and is primarily conducted by small businesses that would
12 benefit from technical and other assistance that may be provided by
13 public agencies.

14 (2) It is the purpose of this chapter to:

15 (a) Substantially increase the procurement of recycled content
16 products by all local and state governmental agencies and public
17 schools, providing a model to encourage comparable commitment by
18 Washington state citizens and businesses in their purchasing practices;

19 (b) Target government procurement policies and goals toward those
20 recycled products for which there are significant market development
21 needs or that may substantially contribute to solutions to the state's
22 waste management problem;

23 (c) Provide standards for recycled products for use in procurement
24 programs by all governmental agencies;

25 (d) Provide the necessary authority to all governmental agencies to
26 adopt preferential purchasing policies for recycled products, including
27 price preferences;

28 (e) Direct state agencies to develop strategies to increase
29 recycled product purchases, and to provide specific goals for

1 procurement of recycled paper products and organic recovered materials;
2 and

3 (f) Provide guidance and direction for local governments and other
4 public agencies to develop plans for increasing the procurement of
5 recycled content products.

6 NEW SECTION. **Sec. 2.** DEFINITIONS. Unless the context clearly
7 requires otherwise, the definitions in this section apply throughout
8 this chapter.

9 (1) "Compost" means the biological and manual conversion of waste
10 materials into a humus-like material, or the product derived from such
11 a process.

12 (2) "Construction and demolition waste" means the waste building
13 materials, packaging, and rubble resulting from construction,
14 remodeling, repair, and demolition operations on pavements, houses,
15 commercial buildings, and other structures.

16 (3) "Contractor" means persons or companies contracting with an
17 agency with respect to work performed under such contracts.

18 (4) "Department" means the department of general administration.

19 (5) "Director" means the director of the department of general
20 administration.

21 (6) "Food waste" means the organic residues generated by the
22 handling, storage, sale, preparation, cooking, and serving of foods.

23 (7) "Land clearing debris" means tree stumps, trunks, brush, or
24 other vegetation or plant waste generated solely from the process of
25 clearing land.

26 (8) "Local government" means a city, town, county, special purpose
27 district, school district, or other municipal corporation.

28 (9) "Lubricating oil" means petroleum-based oils for reducing
29 friction in engine parts and other mechanical parts.

1 (10) "Mixed waste paper" means assorted low-value grades of paper
2 that have not been separated into individual grades of paper at the
3 point of collection.

4 (11) "Nonrecyclable" means those materials that are not capable of
5 being recycled and that would otherwise be processed or disposed of as
6 solid waste.

7 (12) "Organic recovered materials" means a product or products
8 made from composting, grinding, screening, or other processing of yard
9 waste, land clearing debris, or other solid waste, where such products
10 are to be used for compost, mulch, erosion control, ground cover, or
11 other landscaping or similar purposes.

12 (13) "Paper and paper products" means all items manufactured from
13 paper or paperboard.

14 (14) "Postconsumer waste" means a material or product that has
15 served its intended use and has been discarded for disposal or recovery
16 after passing through the hands of a final consumer.

17 (15) "Procurement officer" means the person that has the primary
18 responsibility for procurement of materials or products.

19 (16) "Public agency" means all local governments and state
20 agencies.

21 (17) "State agency" means all units of state government, including
22 divisions of the governor's office, the legislature, the judiciary,
23 state agencies and departments, correctional institutions, vocational
24 technical institutions, and universities and colleges.

25 (18) "Recyclable" means materials that still have useful physical,
26 chemical, or biological properties after serving their original
27 purposes and can, therefore, be reused or recycled for the same or
28 other purposes.

29 (19) "Recycled content product" or "recycled product" means a
30 product containing recycled materials.

1 (20) "Recycled materials" means waste materials and by-products
2 that have been recovered or diverted from solid waste and that can be
3 utilized in place of a raw or virgin material in manufacturing a
4 product and consists of materials derived from postconsumer waste,
5 manufacturing waste, industrial scrap, agricultural wastes, and other
6 items, all of which can be used in the manufacture of new or recycled
7 products.

8 (21) "Re-refined oils" means used lubricating oils from which the
9 physical and chemical contaminants acquired through previous use have
10 been removed through a refining process. Re-refining may include
11 distillation, hydrotreating, or treatments employing acid, caustic,
12 solvent, clay, or other chemicals, or other physical treatments other
13 than those used in reclaiming.

14 (22) "Manufacturing waste" means waste resulting from a part of a
15 manufacturing process that, unless incorporated as feedstock in product
16 manufacture, must be disposed of as a waste.

17 (23) "Sewage sludge" means a nonhazardous solid, semisolid, or
18 liquid waste generated from a municipal, commercial, institutional or
19 industrial wastewater treatment plant, water supply treatment plant, or
20 air pollution control facility.

21 (24) "USEPA product standards" means the product standards of the
22 United States environmental protection agency for recycled content
23 published in the code of federal regulations.

24 (25) "Yard waste" means vegetative prunings, leaves, grass, or
25 branches generated from residential yards or other landscaped areas.

26 NEW SECTION. **Sec. 3.** STANDARDS FOR RECYCLED CONTENT. (1) The
27 director shall adopt standards that specify the minimum content of
28 recycled materials in products or product categories. The standards
29 shall:

1 (a) Be consistent with the USEPA product standards, unless the
2 director finds that a different standard would significantly increase
3 recycled product availability or competition;

4 (b) Consider the standards of other nearby states, to encourage
5 consistency of manufacturing standards;

6 (c) Consider regional product manufacturing capability;

7 (d) Address specific products or classes of products; and

8 (e) Consider postconsumer waste content and the future
9 recyclability of the product.

10 (2) The director shall obtain the comments of the supply management
11 board and department of ecology prior to adopting the recycled content
12 standards.

13 (3) The director shall adopt recycled content standards for at
14 least the following products by the dates indicated:

15 (a) By July 1, 1992:

16 (i) Paper and paper products;

17 (ii) Organic recovered materials;

18 (b) By July 1, 1993:

19 (i) Products for lower value uses containing recycled plastics;

20 (ii) Retread and remanufactured tires;

21 (iii) Lubricating oils;

22 (iv) Automotive batteries; and

23 (v) Building insulation.

24 (4) The standards required by this section shall be applied to
25 recycled product purchasing by the department and other state agencies.
26 The standards may be adopted or applied by any other public agency in
27 product procurement. The standards shall provide for exceptions under
28 appropriate circumstances to allow purchases of recycled products that
29 do not meet the minimum content requirements of the standards.

1 NEW SECTION. **Sec. 4.** LOCAL GOVERNMENT PROCUREMENT PROGRAMS. (1)

2 For purposes of this section only, "local government" means any city,
3 town, county, special purpose district, school district, or other
4 municipal corporation whose expenditures for supplies, excluding
5 expenditures for capital goods, exceeded five hundred thousand dollars
6 for fiscal year 1989. A city purchasing power, water, or gas for
7 resale shall exclude these expenditures in determining its inclusion
8 within this definition.

9 (2) On or before January 1, 1993, each local government shall
10 review its existing procurement policies and specifications to
11 determine whether recycled products are intentionally or
12 unintentionally excluded. The policies and specifications shall be
13 revised to include such products unless a recycled content product does
14 not meet an established performance standard of the agency.

15 (3) Each local government shall adopt a minimum purchasing goal for
16 1995 for recycled content as a percentage of the total dollar value of
17 goods and commodities purchased. To assist in achieving this goal each
18 local government shall adopt a strategy by January 1, 1993, and shall
19 submit a description of the strategy to the department. The department
20 shall report to the legislature by October 1, 1993, on the progress of
21 implementation by local governments, and shall thereafter periodically
22 report on the progress of recycled product purchasing by state and
23 other public agencies. All public agencies shall respond to requests
24 for information from the department for the purpose of its reporting
25 requirements under this section.

26 (4) Each local government shall designate a procurement officer who
27 shall serve as the primary contact with the department for compliance
28 with the requirements of this chapter.

1 **Sec. 5.** RCW 43.19.538 and 1988 c 175 s 2 are each amended to read
2 as follows:

3 (1) The director of general administration, through the state
4 purchasing director, shall develop specifications and adopt rules for
5 the purchase of products which will provide for preferential purchase
6 of products containing ~~((recovered))~~ recycled material by:

7 (a) The use of a weighting factor determined by the amount of
8 ~~((recovered))~~ recycled material in a product, where appropriate and
9 known in advance to potential bidders, to determine the lowest
10 responsible bidder. The actual dollars bid shall be the contracted
11 amount. If the department determines, according to criteria
12 established by rule that the use of this weighting factor does not
13 encourage the use of more ~~((recovered))~~ recycled material, the
14 department shall consider and award bids without regard to the
15 weighting factor. In making this determination, the department shall
16 consider but not be limited to such factors as adequate competition,
17 economics or environmental constraints, quality, and availability.

18 (b) Requiring a written statement of the percentage range of
19 ~~((recovered material))~~ recycled content from the bidder providing
20 products containing ~~((recovered material))~~ recycled. The range may be
21 stated in ~~((fifteen))~~ five percent increments.

22 (2) The director shall develop a directory of businesses that
23 supply products containing significant quantities of ~~((recovered))~~
24 recycled materials. This directory may be combined with and made
25 accessible through the data base of recycled content products to be
26 developed under section 8 of this act.

27 (3) The director shall encourage all parties using the state
28 purchasing office to purchase products containing ~~((recovered))~~
29 recycled materials.

1 (4) The rules, specifications, and bid evaluation shall be
2 consistent with recycled content standards adopted under section 3 of
3 this act.

4 NEW SECTION. Sec. 6. (1) All public agencies shall consider the
5 adoption of policies, rules, or ordinances to provide for the
6 preferential purchase of recycled content products. Any public agency
7 may adopt the preferential purchasing policy of the department of
8 general administration, or portions of such policy, or another policy
9 that provides a preference for recycled content products.

10 (2) The department of general administration shall prepare a model
11 recycled content preferential purchase policy suitable for adoption by
12 public agencies, including units of local government and public school
13 districts. The model policy shall be widely distributed and provided
14 through the technical assistance and workshops under section 9 of this
15 act.

16 (3) A public agency that is not subject to the purchasing authority
17 of the department of general administration, and that adopts the
18 preferential purchase policy or rules of the department, shall not be
19 limited by the percentage price preference included in such policy or
20 rules.

21 NEW SECTION. Sec. 7. STATE AGENCY PROCUREMENT. The department
22 shall prepare a consolidated state plan to increase purchases of
23 recycled products by the department and other state agencies, including
24 higher education institutions, and including purchases as a part of
25 public works contracts and personal services contracts. The plan shall
26 adopt goals for the purchase of plastic products, retread and
27 remanufactured tires, motor vehicle lubricants, and lead acid batteries
28 having recycled content. The plan shall incorporate actions to achieve

1 the following specific goals for the purchase of recycled content paper
2 products and organic recovered materials:

3 (1) Paper products as a percentage of the total dollar amount
4 purchased on an annual basis:

5 (a) At least forty percent by 1993;

6 (b) At least fifty percent by 1994;

7 (c) At least sixty percent by 1995.

8 (2) Organic recovered materials as a percentage of the total dollar
9 amount on an annual basis:

10 (a) At least twenty-five percent by 1993;

11 (b) At least forty percent by 1995;

12 (c) At least sixty percent by 1997.

13 NEW SECTION. **Sec. 8.** DATA BASE. (1) The department shall develop
14 a data base of available products with recycled materials, and vendors
15 who carry the products. The data base shall incorporate information
16 regarding product consistency with the content standards adopted under
17 section 3 of this act. The department shall incorporate information
18 developed through public agency procurement of recycled products.

19 (2) The department shall report to the 1993 legislature on the cost
20 and means of making the data base fully accessible by all public
21 agencies and the private sector.

22 (3) The department shall compile records of purchases by the
23 department or pursuant to department authorities, and information
24 provided by other public agencies, regarding:

25 (a) The percentage of recycled content and, if known, the
26 postconsumer waste in the products purchased;

27 (b) Price paid;

28 (c) The quantity procured over a fiscal year; and

1 (d) Agency experience with the performance of recycled products and
2 the supplier under the terms of the purchase.

3 NEW SECTION. **Sec. 9.** PUBLIC AGENCY PROCUREMENT EDUCATION PROGRAM.

4 (1) The department shall implement an education program to encourage
5 maximum procurement of recycled products by public agencies. The
6 program shall include at least the following:

7 (a) Providing technical assistance to all public agencies and their
8 designated procurement officers on the requirements of this chapter,
9 including preparation of model purchase contracts, the preparation of
10 procurement plans, and the availability of recycled products;

11 (b) Conducting at least two workshops annually to which all public
12 agencies are invited;

13 (c) Encouraging intergovernmental agreements to facilitate
14 procurement of recycled products.

15 (2) The director shall, in consultation with the department of
16 ecology, make available to the public, local jurisdictions, and the
17 private sector, a comprehensive list of substitutes for extremely
18 hazardous, hazardous, toxic, and nonrecyclable products, and disposable
19 products intended for a single use. The department and all state
20 agencies exercising the purchasing authorities of the department shall
21 include the substitute products on bid notifications, except where the
22 department allows an exception based upon product availability, price,
23 suitability for intended use, or similar reasons.

24 (3) The department shall prepare model procurement guidelines for
25 use by units of local government.

26 NEW SECTION. **Sec. 10.** A new section is added to chapter 43.78 RCW
27 to read as follows:

1 PUBLIC PRINTER. The public printer shall maximize the purchase of
2 paper stock with recycled content and shall grant the price preference
3 authorized by section 5 of this act if necessary. In addition to the
4 goals established by section 7 of this act, the public printer shall
5 ensure that seventy-five percent or more of the total dollar amount of
6 printing paper stock used by the printer is recycled content paper by
7 January 1, 1995.

8 NEW SECTION. **Sec. 11.** BID NOTIFICATION. A notation regarding a
9 public agency's intent to procure products with recycled content must
10 be prominently displayed in the procurement solicitation or invitation
11 to bid including:

12 (1) A statement in each product specification describing the
13 postconsumer waste content or recycled content preferred; and

14 (2) A statement describing the agency's preference program.

15 NEW SECTION. **Sec. 12.** VENDOR CERTIFICATION. (1) After July 1,
16 1992, vendors shall certify the recycled material content of products
17 sold to public agencies, specifically identifying the percentage of
18 postconsumer waste and other recycled material that is in the product.
19 The certification shall be in the form of a label on the product or a
20 statement by the vendor attached to the bid documents.

21 (2) The certification on multicomponent or multimaterial products
22 shall verify the percentage and type of postconsumer waste and recycled
23 content by volume contained in the major constituents of the product.

24 (3) The procuring agency may state in bid solicitations that
25 permission to verify the certification by review of the bidder or
26 manufacturer's records must be granted as a condition of the bid award,
27 in the event of a bidder's protest or other challenge to the bid
28 accepted.

1 (4) The department shall adopt rules by May 1, 1992, describing the
2 contents of the certification required by this section.

3 NEW SECTION. **Sec. 13.** PROCUREMENT OF ORGANIC RECOVERED MATERIALS.

4 (1) The department shall increase the procurement of organic recovered
5 materials for all state facilities and grounds that require landscaping
6 or similar work. The department shall survey available vendors and
7 state facilities for which such products are suitable, and attempt to
8 match such supplies and need to lower transportation and other costs.
9 The department shall consider and implement modification of performance
10 standards where appropriate to achieve greater procurement of organic
11 recovered materials.

12 (2) Beginning July 1, 1992, the total of department contracts
13 awarded in whole or in part for the purpose of applying landscaping
14 materials shall include organic recovered materials meeting the
15 following schedule:

16 (a) For the period July 1, 1992, through June 30, 1994, twenty-five
17 percent of the total dollar amount of purchases of such landscaping
18 materials;

19 (b) On and after July 1, 1994, fifty percent of the total dollar
20 amount of purchases of such landscaping materials.

21 NEW SECTION. **Sec. 14.** A new section is added to chapter 47.28 RCW
22 to read as follows:

23 ORGANIC RECOVERED MATERIALS IN TRANSPORTATION PROJECTS. (1) A
24 contract awarded in whole or in part for the purpose of applying
25 landscaping materials as a soil cover or soil amendment to state
26 highway rights of way shall specify that compost products be purchased
27 in accordance with the following schedule:

1 (a) For the period July 1, 1991, through June 30, 1993, twenty-five
2 percent of the total dollar amount purchased;

3 (b) For the period July 1, 1993, through June 30, 1995, fifty
4 percent of the total dollar amount purchased. The percentages in this
5 subsection apply only to the materials' value, and do not include
6 services or other materials.

7 (2) In order to carry out the provisions of this section, the
8 department of transportation shall develop and adopt bid specifications
9 for compost products used in state highway construction projects.

10 NEW SECTION. **Sec. 15.** A new section is added to chapter 19.27 RCW
11 to read as follows:

12 STATE BUILDING CODE STUDY. The state building code council, in
13 consultation with the department of ecology and local governments,
14 shall conduct a study of the state building code, and adopt changes
15 necessary to encourage greater use of recycled building materials from
16 construction and building demolition debris, mixed waste paper, waste
17 plastics, and other waste materials.

18 NEW SECTION. **Sec. 16.** USE OF RECYCLED MATERIALS IN ROAD
19 CONSTRUCTION. The department of transportation shall prepare and
20 forward to the legislature on or before January 1, 1992, a study of the
21 use of recycled materials for public highways, roads, bicycle routes,
22 trails, and paths. The study shall include, but not be limited to:

23 (1) An analysis of the types of recycled materials appropriate and
24 feasible as alternative paving material such as glass, tires, or
25 incinerator ash;

26 (2) An analysis of waste tire rubber uses including, but not
27 limited to, erosion control mats, highway stabilization mats, ferry

1 bumpers, highway crash attenuation barriers, road subbase materials, or
2 backfill;

3 (3) An analysis of using recycled mixed-plastic materials for guard
4 rail posts, right of way fence posts, and sign supports;

5 (4) Strategies to test and monitor the use of recycled content
6 materials in road construction;

7 (5) The development of materials specifications;

8 (6) Plans or proposals for pilot programs or demonstration projects
9 using recycled materials; and

10 (7) Identification of recycled material sources and vendors to
11 ensure competitive product pricing and material availability over the
12 long term.

13 NEW SECTION. **Sec. 17.** ORGANIC RECOVERED MATERIALS IN LOCAL ROAD
14 PROJECTS. (1) Each county and city required to prepare a strategy
15 under section 4 of this act shall adopt specifications for compost
16 products to be used in road projects. The specifications developed by
17 the department of transportation under section 14 of this act may be
18 adopted by the city or county in lieu of developing specifications.

19 (2) Beginning July 1, 1992, any contract awarded in whole or in
20 part for applying soils, soil covers, or soil amendments to road rights
21 of way shall specify that organic recovered materials be purchased in
22 accordance with the following schedule:

23 (a) For the period July 1, 1992, through June 30, 1994, at least
24 twenty-five percent of the total dollar amount of purchases by the city
25 or county;

26 (b) On and after July 1, 1994, at least fifty percent of the total
27 dollar amount of purchases by the city or county.

1 (3) The city or county may depart from the schedule in subsection
2 (2) of this section where it determines that no suitable product is
3 available at a reasonable price.

4 NEW SECTION. **Sec. 18.** A new section is added to Title 28A RCW to
5 read as follows:

6 Every school board of directors shall consider the purchase of
7 playground matting manufactured from shredded waste tires in
8 undertaking construction or maintenance of playgrounds. The department
9 of general administration shall upon request assist in the development
10 of product specifications and vendor identification.

11 NEW SECTION. **Sec. 19.** RCW 43.19.537 and 1988 c 175 s 1 & 1982 c
12 61 s 1 are each repealed.

13 NEW SECTION. **Sec. 20.** CODIFICATION. Sections 1 through 4, 6
14 through 9, 11 through 13, 16, and 17 of this act shall constitute a new
15 chapter in Title 43 RCW.

16 NEW SECTION. **Sec. 21.** CAPTIONS NOT LAW. Captions as used in this
17 act constitute no part of the law.

18 NEW SECTION. **Sec. 22.** If specific funding for the purposes of
19 this act, referencing this act by bill number, is not provided by June
20 30, 1991, in the omnibus appropriations act, this act shall be null and
21 void.