S-1470.1

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

**SUBSTITUTE SENATE BILL 5397**

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

**State of Washington 66th Legislature 2019 Regular Session**

**By** Senate Environment, Energy & Technology (originally sponsored by Senators Rolfes, Carlyle, Darneille, Saldaña, Hasegawa, Hunt, and Kuderer)

AN ACT Relating to the responsible management of plastic packaging; adding a new chapter to Title 70 RCW; and creating a new section.

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

NEW SECTION. **Sec.**  (1) The legislature finds that:

(a) Convenient and environmentally sound product stewardship programs that include collecting, transporting, and recycling of unwanted products help protect Washington's environment and the health of state residents;

(b) Product producers should finance and provide these programs. The programs are intended to encourage producers to design products that have a lower carbon footprint, are less toxic and energy and material intensive, and are more easily repaired, reusable, or recyclable than other products; and

(c) Unwanted products should be managed where priority is placed on prevention, waste reduction, and reuse over energy recovery and landfill disposal.

(2) Additionally, the legislature finds that producers of plastic products must take responsibility for the design and management of their packaging in a manner that ensures minimal environmental impact. Producers of plastic packaging must be involved from design concept to end-of-life management to incentivize innovation and research to minimize environmental impacts and to ensure funding for stewardship of plastic products.

(3) The legislature intends that a program for plastic product stewardship be developed and implemented by January 1, 2022.

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

(1) "Brand" means a name, symbol, word, or mark that identifies a product, rather than its components, and attributes the covered product to the owner of the brand as the producer.

(2) "Covered product" means a product designated by the legislature, either individually or as an item within a covered product category. "Covered product" includes all materials that make up a covered product.

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

(4) "Producer" means a person who:

(a) Has legal ownership of the brand, brand name, or cobrand of a covered product sold in or into Washington state;

(b) Imports a covered product branded by a producer that meets (a) of this subsection and where that producer has no physical presence in the United States;

(c) If (a) and (b) of this subsection do not apply, makes an unbranded product that is sold in or into Washington state; or

(d) Sells at wholesale or retail a covered product, does not have legal ownership of the brand, and elects to fulfill the responsibilities of the producer for that product.

(5) "Product stewardship" means a requirement for a producer of a covered product to manage and reduce adverse safety, health, and environmental impacts of the covered product throughout its life cycle.

(6) "Product stewardship plan" or "plan" means a detailed plan describing the manner in which a product stewardship program will be implemented.

(7) "Product stewardship program" or "program" means a program financed and provided by producers of covered products that addresses product stewardship and includes collecting, transporting, reuse processing, and final disposition of unwanted products, including a fair share of orphan products.

(8) "Recycling" has the same meaning as defined in RCW 70.95.030.

(9) "Reuse" means a change in ownership of a covered product or its components and parts for use in the same manner and purpose for which it was originally purchased.

(10) "Stakeholder" means a person who may have an interest in or be affected by a product stewardship program.

(11) "Stewardship organization" means an organization designated by a producer to act as an agent on behalf of the producer to operate a product stewardship program.

(12) "Unwanted product" means a covered product no longer wanted by its owner or that has been abandoned, discarded, or is intended to be discarded by its owner.

NEW SECTION. **Sec.**  (1) The department must evaluate and assess the amount and types of plastic packaging sold into the state as well as the management and disposal of plastic packaging. When conducting the evaluation, the department must ensure that producers, providers of solid waste management services, and stakeholders are consulted. The department must produce a report that includes:

(a) An assessment of the:

(i) Amount and types of plastic packaging currently coming into the state by category;

(ii) Full cost of managing plastic packaging waste, including the cost to ratepayers, businesses, and others, with consideration given to costs that are determined by volume or weight;

(iii) Final disposition of all plastic packaging sold into the state;

(iv) Costs and savings to all stakeholders in product stewardship programs where they are implemented in other cities and solid waste management companies including, where available, the specific costs for the management of plastic packaging;

(v) Needed infrastructure necessary to implement a product stewardship program; and

(vi) Existing stewardship organizations and databases for managing product stewardship programs that could be employed for use in developing a program in the state;

(b) A compilation of:

(i) All the programs currently managing plastic packaging in the state, including all end-of-life management and litter and contamination cleanup; and

(ii) Existing studies regarding the final disposition of plastic packaging and materials recovery facilities residual composition, including data on cross-contamination of other recyclables, contamination in compost, and brand data in litter when available; and

(c) A review of industry efforts and innovations to reduce, reuse, and recycle plastic packaging.

(2) The department must contract with a third-party independent consultant to conduct the evaluation and assessment as required under subsection (1) of this section.

(3) By December 31, 2019, the department must submit a report on the evaluation and assessment of plastic packaging to the appropriate committees of the legislature. The report must include findings and recommendations for plastic packaging product stewardship.

NEW SECTION. **Sec.**  (1) The legislature designates plastic packaging as a covered product requiring product stewardship.

(2) The department must work with producers, local governments, and regulated and nonregulated service providers of solid waste services, including collection, recycling, sorting, reprocessing providers, and stakeholders to develop a product stewardship plan and implement a program for product stewardship for plastic packaging coming into and used in the state. The product stewardship program must at minimum include:

(a) Progressive management of plastic packaging to increase rates of recycling and reduce solid waste;

(b) A goal to reduce generation and disposal of plastic by at least five percent annually;

(c) Strategies to manage and reduce life-cycle impacts of products and packaging, from product design to end-of-life management, including ways to improve designing, packaging, and distributing products to:

(i) Reduce waste, energy intensity, toxicity, carbon footprints, and other environmental and health impacts;

(ii) Increase recycled content and product longevity; and

(iii) Make products more easily reusable or recyclable; and

(d) Education and outreach activities that include a description for working with and providing information about the program to retailers, wholesalers, collectors, and other interested parties to disseminate to covered entities.

(3) When developing a plan and program for plastic packaging product stewardship, the department must take into consideration the findings and recommendations provided in the report to the legislature as required under section 3 of this act.

(4) The department, producers, providers of services, and stakeholders must aspire to establish a product stewardship program by January 1, 2022.

(5) The department may adopt rules necessary to implement and enforce a product stewardship program. The rules may include fees sufficient to cover the department's cost for administering the program. All fees must be deposited into the plastic products stewardship account created in section 5 of this act.

NEW SECTION. **Sec.**  The plastic products stewardship account is created in the state treasury. All receipts from the product stewardship program must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for the purposes of this chapter.

NEW SECTION. **Sec.**  The requirements of sections 3 and 4 of this act are subject to the availability of funding under the waste reduction, recycling, and litter control account, RCW 70.93.180.

NEW SECTION. **Sec.**  Sections 1 through 5 of this act constitute a new chapter in Title 70 RCW.

**--- END ---**