

E2SSB 5022 - H COMM AMD

By Committee on Appropriations

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

3 "NEW SECTION. **Sec. 1.** FINDINGS—INTENT. (1) The legislature
4 finds that minimum recycled content requirements for plastic beverage
5 containers, trash bags, and household cleaning and personal care
6 product containers, bans on problematic and unnecessary plastic
7 packaging, and standards for customer opt-in for food service
8 packaging and accessories are among actions needed to improve the
9 state's recycling system as well as reduce litter.

10 (2) By implementing a minimum recycled content requirement for
11 plastic beverage containers, trash bags, and household cleaning and
12 personal care product containers; prohibiting the sale and
13 distribution of certain expanded polystyrene products; and
14 establishing optional serviceware requirements as provided for in
15 this chapter; the legislature intends to take another step towards
16 ensuring plastic packaging and other packaging materials are reduced,
17 recycled, and reused.

18 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
19 section apply throughout this chapter unless the context clearly
20 requires otherwise.

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

25 (a) Water and flavored water;

26 (b) Beer or other malt beverages;

27 (c) Wine;

28 (d) Distilled spirits;

29 (e) Mineral water, soda water, and similar carbonated soft
30 drinks; and

1 (f) Any beverage other than those specified in (a) through (e) of
2 this subsection, except infant formula as defined in 21 U.S.C. Sec.
3 321(z), medical food as defined in 21 U.S.C. Sec. 360ee(b)(3), or
4 fortified oral nutritional supplements used for persons who require
5 supplemental or sole source nutritional needs due to special dietary
6 needs directly related to cancer, chronic kidney disease, diabetes,
7 or other medical conditions as determined by the department.

8 (2) "Beverage manufacturing industry" means an association that
9 represents beverage producers.

10 (3) "Condiment packaging" means packaging used to deliver single-
11 serving condiments to customers. Condiment packaging includes, but is
12 not limited to, single-serving packaging for ketchup, mustard,
13 relish, mayonnaise, hot sauce, coffee creamer, salad dressing, jelly,
14 jam, and soy sauce.

15 (4)(a) "Covered product" means an item in one of the following
16 categories subject to minimum postconsumer recycled content
17 requirements:

18 (i) Plastic trash bags;

19 (ii) Household cleaning and personal care products that use
20 plastic household cleaning and personal care product containers; and

21 (iii) Beverages that use plastic beverage containers.

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

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

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

29 (7) "Expanded polystyrene" means blown polystyrene and expanded
30 and extruded foams that are thermoplastic petrochemical materials
31 utilizing a styrene monomer and processed by any number of techniques
32 including, but not limited to, fusion of polymer spheres (expandable
33 bead polystyrene), injection molding, foam molding, and extrusion-
34 blow molding (extruded foam polystyrene).

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

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

7 (10) "Household cleaning and personal care product" means any of
8 the following:

9 (a) Laundry detergents, softeners, and stain removers;

10 (b) Household cleaning products;

11 (c) Liquid soap;

12 (d) Shampoo, conditioner, styling sprays and gels, and other hair
13 care products; or

14 (e) Lotion, moisturizer, facial toner, and other skin care
15 products.

16 (11) "Household cleaning and personal care product manufacturing
17 industry" means an association that represents companies that
18 manufacture household cleaning and personal care products.

19 (12) "Licensee" means a manufacturer or entity who licenses a
20 brand and manufactures a covered product under that brand.

21 (13) "Oral nutritional supplement" means a manufactured liquid,
22 powder capable of being reconstituted, or solid product that contains
23 a combination of carbohydrates, proteins, fats, fiber, vitamins, and
24 minerals intended to supplement a portion of a patient's nutrition
25 intake.

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

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

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

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

38 (d) Liners, caps, corks, closures, labels, and other items added
39 externally or internally but otherwise separate from the structure of
40 the bottle or container.

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

4 (i) A minimum capacity of eight fluid ounces or its equivalent
5 volume;

6 (ii) A maximum capacity of five fluid gallons or its equivalent
7 volume;

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

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

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

11 (b) "Plastic household cleaning and personal care product
12 container" does not include:

13 (i) Refillable household cleaning and personal care product
14 containers, such as containers that are sufficiently durable for
15 multiple rotations of their original or similar purpose and are
16 intended to function in a system of reuse; and

17 (ii) Rigid plastic containers or plastic bottles that are medical
18 devices, medical products that are required to be sterile, and
19 nonprescription and prescription drugs, dietary supplements as
20 defined in RCW 82.08.0293, and packaging used for those products.

21 (16) "Plastic trash bag" means a bag that is made of
22 noncompostable plastic, is at least 0.70 mils thick, and is designed
23 and manufactured for use as a container to hold, store, or transport
24 materials to be discarded or recycled, and includes, but is not
25 limited to, a garbage bag, recycling bag, lawn or leaf bag, can liner
26 bag, kitchen bag, or compactor bag. "Plastic trash bag" does not
27 include any compostable bags meeting the requirements of chapter
28 70A.455 RCW.

29 (17) "Plastic trash bag manufacturing industry" means an
30 association that represents companies that manufacture plastic trash
31 bags.

32 (18) "Postconsumer recycled content" means the content of a
33 covered product made of recycled materials derived specifically from
34 recycled material generated by households or by commercial,
35 industrial, and institutional facilities in their role as end users
36 of a product that can no longer be used for its intended purpose.
37 "Postconsumer recycled content" includes returns of material from the
38 distribution chain.

39 (19) (a) "Producer" means the following person responsible for
40 compliance with minimum postconsumer recycled content requirements

1 under this chapter for a covered product sold, offered for sale, or
2 distributed in or into this state:

3 (i) If the covered product is sold under the manufacturer's own
4 brand or lacks identification of a brand, the producer is the person
5 who manufactures the covered product;

6 (ii) If the covered product is manufactured by a person other
7 than the brand owner, the producer is the person who is the licensee
8 of a brand or trademark under which a covered product is sold,
9 offered for sale, or distributed in or into this state, whether or
10 not the trademark is registered in this state, unless the
11 manufacturer or brand owner of the covered product has agreed to
12 accept responsibility under this chapter; or

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

17 (b) "Producer" does not include:

18 (i) Government agencies, municipalities, or other political
19 subdivisions of the state;

20 (ii) Registered 501(c)(3) charitable organizations and 501(c)(4)
21 social welfare organizations; or

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

24 (A) Less than one ton of a single category of plastic beverage
25 containers, plastic household cleaning and personal care containers,
26 or plastic trash bags each year; or

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

29 (20)(a) "Retail establishment" means any person, corporation,
30 partnership, business, facility, vendor, organization, or individual
31 that sells or provides merchandise, goods, or materials directly to a
32 customer.

33 (b) "Retail establishment" includes, but is not limited to, food
34 service businesses, grocery stores, department stores, hardware
35 stores, home delivery services, pharmacies, liquor stores,
36 restaurants, catering trucks, convenience stores, or other retail
37 stores or vendors, including temporary stores or vendors at farmers
38 markets, street fairs, and festivals.

39 (21)(a) "Utensil" means a product designed to be used by a
40 consumer to facilitate the consumption of food or beverages,

1 including knives, forks, spoons, cocktail picks, chopsticks, splash
2 sticks, and stirrers.

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

5 NEW SECTION. **Sec. 3.** POSTCONSUMER RECYCLED CONTENT. (1) (a)
6 Beginning January 1, 2023, producers that offer for sale, sell, or
7 distribute in or into Washington:

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

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

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

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

25 (2) (a) On or before April 1, 2022, and annually thereafter, a
26 producer that offers for sale, sells, or distributes in or into
27 Washington covered products must register with the department
28 individually or through a third-party representative registering on
29 behalf of a group of producers.

30 (b) The registration information submitted to the department
31 under this section must include a list of the producers of covered
32 products and the brand names of the covered products represented in
33 the registration submittal. Beginning April 1, 2024, for plastic
34 trash bags and plastic beverage containers other than wine in 187
35 milliliter plastic beverage containers and dairy milk in plastic
36 beverage containers, April 1, 2026, for plastic household and
37 personal care product containers, and April 1, 2027, for wine in 187
38 milliliter plastic beverage containers and dairy milk, a producer may
39 submit registration information at the same time as the information

1 submitted through the annual reporting required under section 4 of
2 this act.

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

5 (i) Identify the annual costs it expects to incur to implement
6 this section and sections 4 through 7 and 12(1), (2), and (4) of this
7 act in the next fiscal year for each category of covered products,
8 including rule making;

9 (ii) Submit invoices of costs to producers or their third-party
10 representatives; and

11 (iii) Determine an annual payment by producers or their third-
12 party representative for each category of covered products that is
13 adequate to cover, but not exceed, the department's full costs to
14 implement, administer, and enforce this chapter in the next fiscal
15 year, including rule making, for that category of covered product. In
16 a general order directed to all entities falling within the
17 definition of a producer, the department must equitably determine
18 payment amounts for individual producers or third-party
19 representatives within each category of covered products.

20 (b) The department must:

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

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

27 (c) By April 1, 2022, and every April 1st thereafter, producers
28 or their third-party representative must submit a payment as
29 determined by the department under (a) of this subsection.

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

35 (a) For beverages except wine in 187 milliliter plastic beverage
36 containers and dairy milk:

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

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

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

3 (b) For wine in 187 milliliter plastic beverage containers and
4 dairy milk:

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

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

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

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

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

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

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

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

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

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

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

33 (7)(a) Beginning January 1, 2024, or when rule making is
34 complete, whichever is sooner, the department may, on an annual basis
35 on January 1st, review and determine for the following year whether
36 to adjust the minimum postconsumer recycled content percentage
37 required for a type of container or product or category of covered
38 products pursuant to subsection (4), (5), or (6) of this section. The
39 department's review may be initiated by the department or at the
40 petition of a producer or a covered product manufacturing industry

1 not more than once annually. When submitting a petition, producers or
2 a producer manufacturing industry must provide necessary information
3 that will allow the department to make a determination under (b) of
4 this subsection.

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

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

10 (ii) Recycling rates;

11 (iii) The availability of recycled plastic suitable to meet the
12 minimum postconsumer recycled content requirements pursuant to
13 subsection (4), (5), or (6) of this section, including the
14 availability of high quality recycled plastic, and food-grade
15 recycled plastic from recycling programs;

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

17 (v) The technical feasibility of achieving the minimum
18 postconsumer recycled content requirements in covered products that
19 are regulated under 21 C.F.R., chapter I, subchapter G, 7 U.S.C. Sec.
20 136, 15 U.S.C. Sec. 1471-1477, 49 C.F.R. Sec. 178.33b, 49 C.F.R. Sec.
21 173, 40 C.F.R. Sec. 152.10, 15 U.S.C. Sec. 1261-1278, 49 U.S.C. 5101
22 et seq., 49 C.F.R. Sec. 178.509, 49 C.F.R. Sec. 179.522, 49 C.F.R.
23 Sec. 178.600-609, and other federal laws; and

24 (vi) The progress made by producers in achieving the goals of
25 this section.

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

27 (i) The department may not adjust the minimum postconsumer
28 recycled content requirements above the minimum postconsumer recycled
29 content percentages for the year under review required pursuant to
30 subsection (4), (5), or (6) of this section.

31 (ii) For plastic household cleaning and personal care product
32 containers, the department may not adjust the minimum postconsumer
33 recycled content requirements above the minimum postconsumer recycled
34 content percentages for the year under review required pursuant to
35 subsection (5) of this section or below a minimum of 10 percent.

36 (iii) For plastic trash bags, the department may not adjust the
37 minimum postconsumer recycled content requirements above the minimum
38 postconsumer recycled content percentages for the year under review
39 required pursuant to subsection (6) of this section or below the
40 minimum percentage required in subsection (6) (a) of this section.

1 (d) A producer or the manufacturing industry for a covered
2 product may appeal a decision by the department to adjust
3 postconsumer recycled content percentages under (a) of this
4 subsection to the pollution control hearings board within 30 days of
5 the department's determination.

6 (8) A producer that does not achieve the postconsumer recycled
7 content requirements established under this section is subject to
8 penalties established in section 5 of this act.

9 (9)(a) A city, town, county, or municipal corporation may not
10 implement local recycled content requirements for a covered product
11 that is subject to minimum postconsumer recycled content requirements
12 established in this section.

13 (b) A city, town, county, or municipal corporation may establish
14 local purchasing requirements that include recycled content standards
15 that exceed the minimum recycled content requirements established by
16 this chapter for plastic household cleaning and personal care product
17 containers or plastic trash bags purchased by a city, town, or
18 municipal corporation, or its contractor.

19 (10) The department may enter into contracts for the services
20 required to implement this chapter and related duties of the
21 department.

22 (11) In-state distributors, wholesalers, and retailers in
23 possession of covered products manufactured before the date that
24 postconsumer recycled content requirements become effective may
25 exhaust their existing stock through sales to the public.

26 NEW SECTION. **Sec. 4.** PRODUCER REPORTING REQUIREMENTS. (1)(a)
27 Except as provided in (b) and (c) of this subsection, beginning April
28 1, 2024, each producer of covered products, individually or through a
29 third party representing a group of producers, must provide an annual
30 report to the department that includes the amount in pounds of virgin
31 plastic and the amount in pounds of postconsumer recycled content by
32 resin type used for each category of covered products that are sold,
33 offered for sale, or distributed in or into Washington state,
34 including the total postconsumer recycled content resins as a
35 percentage of total weight. The report must be submitted in a format
36 and manner prescribed by the department. A manufacturer may submit
37 national data allocated on a per capita basis for Washington to
38 approximate the information required in this subsection if the

1 producer or third-party representative demonstrates to the department
2 that state level data are not available or feasible to generate.

3 (b) The requirements of (a) of this subsection apply to household
4 cleaning and personal care products in plastic containers beginning
5 April 1, 2026.

6 (c) The requirements of (a) of this subsection apply to wine in
7 187 milliliter plastic beverage containers and dairy milk in plastic
8 beverage containers beginning April 1, 2029.

9 (d) The department must post the information reported under this
10 subsection on its website, except as provided in subsection (2) of
11 this section.

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

22 NEW SECTION. **Sec. 5.** PENALTIES FOR POSTCONSUMER RECYCLED
23 CONTENT REQUIREMENTS. (1)(a) A producer that does not meet the
24 minimum postconsumer recycled content requirements pursuant to
25 section 3 of this act is subject to a penalty pursuant to this
26 section. Beginning June 1st of the year following the first year that
27 minimum postconsumer recycled product content requirements apply to a
28 category of covered product, the penalty must be calculated
29 consistent with subsection (2) of this section unless a penalty
30 reduction or corrective action plan has been approved pursuant to
31 subsection (3) of this section.

32 (b) A producer that is assessed a penalty pursuant to this
33 section may pay the penalty to the department in one payment, in
34 quarterly installments, or arrange an alternative payment schedule
35 subject to the approval of the department, not to exceed a 12-month
36 payment schedule unless the department determines an extension is
37 needed due to unforeseen circumstances, such as a public health
38 emergency, state of emergency, or natural disaster.

1 (2) Beginning June 1st of the year following the first year that
2 minimum postconsumer recycled product content requirements apply to a
3 category of covered product, and annually thereafter, the department
4 shall determine the penalty for the previous calendar year based on
5 the postconsumer recycled content requirement of the previous
6 calendar year. The department shall calculate the amount of the
7 penalty based upon the amounts in pounds in the aggregate of virgin
8 plastic, postconsumer recycled content plastic, and any other plastic
9 per category used by the producer to produce covered products sold or
10 offered for sale in or into Washington state, in accordance with the
11 following:

12 (a)(i) The annual penalty amount assessed to a producer must
13 equal the product of both of the following: The total pounds of
14 plastic used per category multiplied by the relevant minimum
15 postconsumer recycled plastic target percentage, less the pounds of
16 total plastic multiplied by the percent of postconsumer recycled
17 plastic used; multiplied by 20 cents.

18 (ii) Example: [(Total pounds of plastic used x minimum
19 postconsumer recycled plastic target percentage) - (Total pounds of
20 plastic used x postconsumer recycled plastic percentage used)] x 20
21 cents.

22 (b) For the purposes of (a) of this subsection, both of the
23 following apply:

24 (i) The total pounds of plastic used must equal the sum of the
25 amount of virgin plastic, postconsumer recycled content plastic, and
26 any other plastic used by the producer, as reported pursuant to
27 section 4 of this act.

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

31 (3)(a)(i) The department shall consider granting a reduction of
32 penalties assessed pursuant to this section for the purpose of
33 meeting the minimum postconsumer recycled content requirements
34 required pursuant to section 3 of this act.

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

38 (A) Anomalous market conditions;

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

1 (C) Other factors that have prevented a producer from meeting the
2 requirements.

3 (b) In lieu of or in addition to assessing a penalty under this
4 section, the department may require a producer to submit a corrective
5 action plan detailing how the producer plans to come into compliance
6 with section 3 of this act.

7 (4) A producer shall pay the penalty assessed pursuant to this
8 section, as applicable, based on the information reported to the
9 department as required under section 4 of this act in the form and
10 manner prescribed by the department.

11 (5) A producer may appeal the penalty assessed under this section
12 to the pollution control hearings board within 30 days of assessment.

13 (6) Penalties collected under this section must be deposited in
14 the recycling enhancement account created in section 13 of this act.

15 NEW SECTION. **Sec. 6.** PENALTIES FOR REGISTRATION, LABELING, AND
16 REPORTING. (1) For producers out of compliance with the registration,
17 reporting, or labeling requirements of section 3, 4, or 7 of this
18 act, the department shall provide written notification and offer
19 information to producers. For the purposes of this section, written
20 notification serves as notice of the violation. The department must
21 issue at least two notices of violation by certified mail prior to
22 assessing a penalty under subsection (2) of this section.

23 (2) A producer in violation of the registration, reporting, or
24 labeling requirements in section 3, 4, or 7 of this act is subject to
25 a civil penalty for each day of violation in an amount not to exceed
26 \$1,000.

27 (3) Penalties collected under this section must be deposited in
28 the recycling enhancement account created in section 13 of this act.

29 (4) Penalties issued under this section are appealable to the
30 pollution control hearings board established in chapter 43.21B RCW.

31 NEW SECTION. **Sec. 7.** TRASH BAG LABELING REQUIREMENTS. (1)
32 Beginning January 1, 2023, producers shall label each package
33 containing plastic trash bags sold, offered for sale, or distributed
34 in or into Washington with:

35 (a) The name of the producer and the city, state, and country
36 where the producer is located, which may be designated as the
37 location of the producer's corporate headquarters; or

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

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

7 (b) For the purposes of this subsection:

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

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

12 NEW SECTION. **Sec. 8.** A new section is added to chapter 39.26
13 RCW to read as follows:

14 POSTCONSUMER RECYCLED CONTENT IN PLASTIC TRASH BAGS—PURCHASING
15 PRIORITY. (1) Beginning July 1, 2024, all state agencies may only
16 purchase plastic trash bags manufactured by producers that comply
17 with the minimum recycled content requirements established in section
18 3 of this act.

19 (2) By July 1, 2024, the department of ecology shall provide to
20 the department a list of the plastic trash bag producer brands that
21 comply with the minimum recycled content requirements established in
22 section 3 of this act, in order for state agencies to purchase
23 compliant products, updated annually.

24 NEW SECTION. **Sec. 9.** (1)(a) By July 1, 2021, the departments of
25 commerce and ecology shall jointly select an impartial, third-party
26 facilitator to convene a stakeholder advisory committee housed within
27 the recycling development center. The advisory committee shall make
28 recommendations to the appropriate committees of the legislature on
29 the development of mandatory postconsumer recycled content
30 requirements for types of plastic packaging not subject to the
31 minimum postconsumer recycled content requirements established in
32 this act, and that are present in the municipal solid waste material
33 stream or are regularly received by facilities that process
34 recyclable materials from residential curbside recycling programs.
35 The recommendations may include rates of mandatory postconsumer
36 recycled content required by material type, target implementation
37 dates, and potential exemptions or alternate compliance pathways for
38 some materials.

- 1 (b) The facilitator must:
- 2 (i) Work with the recycling development center to subcontract for
3 any relevant information regarding recycled plastic market conditions
4 and barriers to the use of recycled content to provide to the
5 stakeholder advisory committee to aid in the development of
6 recommendations, to the extent practicable;
- 7 (ii) Provide staff and support to the stakeholder advisory
8 committee meetings; and
- 9 (iii) Draft reports and other materials for review by the
10 stakeholder advisory committee.
- 11 (2) The facilitator identified in subsection (1) of this section
12 must be selected based on the following criteria:
- 13 (a) Impartiality regarding policy outcomes;
- 14 (b) Professional qualifications, relevant experience, and
15 degrees; and
- 16 (c) The facilitator must be an environmental conflict resolution
17 specialist recognized by a national center for environmental conflict
18 resolution.
- 19 (3) By December 1, 2021, the facilitator shall submit a report to
20 the legislature containing the recommendations of the stakeholder
21 advisory committee after review and approval by the facilitator and
22 committee. The stakeholder advisory committee shall make
23 recommendations using consensus-based decision making. The report
24 must include recommendations where general stakeholder consensus has
25 been achieved and note dissenting opinions where stakeholder
26 consensus has not been achieved.
- 27 (4) The stakeholder advisory committee shall consider information
28 and findings by a variety of authoritative bodies related to recycled
29 content, including mechanical and advanced recycling technologies.
- 30 (5) The facilitator shall select at least one member to the
31 stakeholder advisory committee from each of the following:
- 32 (a) The department of commerce;
- 33 (b) The department of ecology;
- 34 (c) The utilities and transportation commission;
- 35 (d) Cities, including both small and large cities and cities
36 located in urban and rural counties;
- 37 (e) Counties, including both small and large counties and urban
38 and rural counties;
- 39 (f) Municipal collectors;

- 1 (g) A representative from the private sector waste and recycling
2 industry that owns or operates a curbside recycling program and a
3 material recovery facility;
- 4 (h) A solid waste collection company regulated under chapter
5 81.77 RCW that provides curbside recycling services;
- 6 (i) A material recovery facility operator that processes
7 municipal solid waste from curbside recycling programs;
- 8 (j) A company that provides curbside recycling service pursuant
9 to a municipal contract under RCW 81.77.020;
- 10 (k) A trade association that represents the private sector solid
11 waste industry;
- 12 (l) Recycled plastic feedstock users;
- 13 (m) A trade association representing the plastics recycling
14 industry;
- 15 (n) A recycled content certification organization;
- 16 (o) An environmental justice organization;
- 17 (p) An environmental nonprofit organization;
- 18 (q) An environmental nonprofit organization that specializes in
19 waste and recycling issues;
- 20 (r) Plastic converters/manufacturers of resins;
- 21 (s) A manufacturer of plastic packaging;
- 22 (t) A statewide general business trade association;
- 23 (u) Associations that represent consumer brand companies;
- 24 (v) Representatives of consumer brands;
- 25 (w) A consumer-oriented organization;
- 26 (x) Representatives of the state's most marginalized communities;
- 27 (y) A retailer or representative of the retail association;
- 28 (z) A representative of an advanced recycling technology provider
29 that processes plastic material;
- 30 (aa) An association that represents cities;
- 31 (bb) An association that represents county solid waste managers;
- 32 (cc) A representative from a retail grocery association; and
- 33 (dd) A representative from a Washington headquartered online
34 retailer.
- 35 (6) The definitions in section 2 of this act apply throughout
36 this section unless the context clearly requires otherwise.
- 37 (7) This section expires January 1, 2022.

38 NEW SECTION. **Sec. 10.** EXPANDED POLYSTYRENE PROHIBITIONS. (1) (a)
39 Beginning June 1, 2024, the sale and distribution of the following

1 expanded polystyrene products in or into Washington state is
2 prohibited:

3 (i) A portable container that is designed or intended to be used
4 for cold storage, except for expanded polystyrene containers used for
5 drugs, medical devices, and biological materials as defined in the
6 federal food, drug, and cosmetic act (21 U.S.C. Sec. 301 et seq.) or
7 shipping perishable commodities from a wholesale or retail
8 establishment; and

9 (ii) Food service products that include food containers, plates,
10 clam shell-style containers, and hot and cold beverage cups. For the
11 purposes of this subsection (1)(a)(ii), food service products do not
12 include: Packaging for raw, uncooked, or butchered meat, fish,
13 poultry, or seafood, vegetables, fruit, or egg cartons.

14 (b) Beginning June 1, 2023, the sale and distribution of void
15 filling packaging products, which means loose fill packaging
16 material, also referred to as packing peanuts, in or into Washington
17 state is prohibited.

18 (2)(a) The department must provide technical assistance and
19 guidance to manufacturers of prohibited expanded polystyrene
20 products, upon request. For manufacturers out of compliance with the
21 requirements of this section, the department shall provide written
22 notification and offer information to manufacturers that sell
23 prohibited expanded polystyrene products who are in violation of this
24 section. For the purposes of this section, written notification
25 serves as notice of the violation. The department must issue at least
26 two notices of violation by certified mail prior to assessing a
27 penalty.

28 (b) A manufacturer of products in violation of this section is
29 subject to a civil penalty for each violation in an amount not to
30 exceed:

31 (i) \$250 if it is the manufacturer's first penalty; and

32 (ii) \$1,000 if the manufacturer has previously been issued a
33 civil penalty under this section.

34 (c) Penalties collected under this section must be deposited in
35 the model toxics control operating account created in RCW
36 70A.305.180.

37 (d) Penalties issued under this section are appealable to the
38 pollution control hearings board established in chapter 43.21B RCW.

39 (3) A city, town, county, or municipal corporation may not
40 implement a local ordinance restricting products prohibited under

1 subsection (1) of this section unless the ordinance was filed by
2 April 1, 2021, and enacted by June 1, 2021. An ordinance restricting
3 products prohibited under subsection (1) of this section that was not
4 enacted as of June 1, 2021, is preempted by this section.

5 (4) For the purposes of this section, "manufacturer" includes any
6 person, firm, association, partnership, corporation, governmental
7 entity, organization, or joint venture that:

8 (a) Produces the products subject to restrictions in subsection
9 (1) of this section; or

10 (b) Is an importer or domestic distributor of a product subject
11 to restrictions in subsection (1) of this section sold or offered for
12 sale in or into the state.

13 NEW SECTION. **Sec. 11.** OPTIONAL SERVICEWARE. (1) Beginning
14 January 1, 2022:

15 (a) Except as provided in (b) of this subsection, a food service
16 business may provide the following single use food service products
17 only after affirming that the customer wants the item or items:

18 (i) Utensils;

19 (ii) Straws;

20 (iii) Condiment packaging; and

21 (iv) Beverage cup lids.

22 (b) A food service business may provide beverage cup lids without
23 customer affirmation for:

24 (i) Hot beverages;

25 (ii) Beverages provided through delivery service or curbside
26 pickup; and

27 (iii) Beverages served to customers via a drive through or at
28 large, permanent, venues that are designed for professional sport or
29 music events and that have a fixed-seat capacity of at least 2,500
30 customers and are enclosed or are surrounded by a perimeter fence.

31 (c) The requirements of this section do not apply to food service
32 products provided to a patient, resident, or customer in:

33 (i) A health care facility or a health care provider as defined
34 in RCW 70.02.010;

35 (ii) Long-term care facilities identified in RCW 18.51.010,
36 18.20.020, 70.128.010, 70.97.010, or 18.390.010;

37 (iii) Senior nutrition programs authorized under 45 C.F.R. Sec.
38 1321, and home delivered meals offered under chapters 74.39 and
39 74.39A RCW;

1 (iv) Services to individuals with developmental disabilities
2 under Title 71A RCW and chapter 74.39A RCW; and

3 (v) State hospitals as defined in RCW 72.23.010.

4 (d) The requirements of this subsection (1) apply to the
5 activities of the department of corrections and the department of
6 children, youth, and families only to the extent operationally
7 feasible and practicable.

8 (2)(a) Nothing in this section prohibits a food service business
9 from making utensils, straws, condiments, and beverage cup lids
10 available to customers using cylinders, bins, dispensers, containers,
11 or other means of allowing for single-use utensils, straws,
12 condiments, and beverage cup lids to be obtained at the affirmative
13 volition of the customer.

14 (b) Utensils provided by a food service business for use by
15 customers may not be bundled or packaged in plastic in such a way
16 that a customer is unable to take only the type of single-use utensil
17 or utensils desired without also taking a different type or types of
18 utensil.

19 (3)(a) The department may issue a civil penalty of no less than
20 \$150 per day and no more than \$2,000 per day to the owner or operator
21 of a food service business for each day single-use food service
22 products are provided in violation of this section.

23 (b) The department must issue at least two notices of violation
24 by certified mail prior to assessing a penalty.

25 (c) Penalties collected under this section must be deposited in
26 the model toxics control operating account created in RCW
27 70A.305.180.

28 (d) A food service business may appeal penalties assessed under
29 this subsection to the pollution control hearings board within 30
30 days of assessment.

31 (4) All food service businesses are encouraged, but not required,
32 to take actions in addition to the requirements of this section that
33 support a goal of reducing the use of and waste generated by single-
34 use food service products.

35 (5) Beginning July 1, 2021, a city, town, county, or municipal
36 corporation may not enact an ordinance to reduce pollution from
37 single-use food service products by requiring affirmation that a
38 customer wants single-use food service products from the customer of
39 the food service business or other retail establishment.

1 NEW SECTION. **Sec. 12.** DEPARTMENT DUTIES. (1) The department may
2 conduct audits and investigations for the purpose of ensuring
3 compliance with sections 3 and 5 of this act based on the information
4 reported under section 4 of this act.

5 (2) The department shall annually publish a list of registered
6 producers of covered products and associated brand names, their
7 compliance status, and other information the department deems
8 appropriate on the department's website.

9 (3) To assist regulated parties with the requirements specified
10 under sections 10 and 11 of this act, the department:

11 (a) Must prepare and post on its website information regarding
12 the prohibitions on the sale and distribution of expanded polystyrene
13 products as specified under section 10 of this act and optional
14 serviceware under section 11 of this act;

15 (b) For education and outreach to help implement sections 10 and
16 11 of this act, may develop culturally appropriate and translated
17 educational materials and resources for the state's diverse ethnic
18 populations from existing materials used by local jurisdictions and
19 other states.

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

22 NEW SECTION. **Sec. 13.** RECYCLING ENHANCEMENT ACCOUNT. The
23 recycling enhancement account is created in the custody of the state
24 treasurer. All penalties collected by the department pursuant to
25 sections 5 and 6 of this act must be deposited in the account. Only
26 the director of the department or the director's designee may
27 authorize expenditures from the account. The account is subject to
28 the allotment procedures under chapter 43.88 RCW, but an
29 appropriation is not required for expenditures. Expenditures from the
30 account may be used by the department only for providing grants to
31 local governments for the purpose of supporting local solid waste and
32 financial assistance programs.

33 NEW SECTION. **Sec. 14.** RECYCLED CONTENT ACCOUNT. The recycled
34 content account is created in the custody of the state treasurer. All
35 receipts received by the department under section 3 of this act must
36 be deposited in the account. Only the director of the department or
37 the director's designee may authorize expenditures from the account.
38 The account is subject to the allotment procedures under chapter

1 43.88 RCW, but an appropriation is not required for expenditures.
2 Expenditures from the account may be used by the department only for
3 implementing, administering, and enforcing the requirements of
4 sections 3 through 7 and 12(1), (2), and (4) of this act.

5 NEW SECTION. **Sec. 15.** MARKET STUDY. (1) Subject to the
6 availability of amounts appropriated for this specific purpose prior
7 to January 1, 2028, the department shall contract with a research
8 university or an independent third-party consultant to study the
9 plastic resin markets for all of the following:

10 (a) Analyzing market conditions and opportunities in the state's
11 recycling industry for meeting the minimum postconsumer recycled
12 content requirements for covered products pursuant to sections 3 and
13 4 of this act; and

14 (b) Determining the data needs and tracking opportunities to
15 increase the transparency and support of a more effective, fact-based
16 public understanding of the recycling industry.

17 (2) If funding is provided pursuant to subsection (1) of this
18 section and the department undertakes the study, the study must be
19 completed by May 1, 2029.

20 **Sec. 16.** RCW 43.21B.110 and 2020 c 138 s 11 and 2020 c 20 s 1035
21 are each reenacted and amended to read as follows:

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

29 (a) Civil penalties imposed pursuant to RCW 18.104.155,
30 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070,
31 70A.515.060, sections 5, 6, 10, and 11 of this act, 76.09.170,
32 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144,
33 90.56.310, 90.56.330, and 90.64.102.

34 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
35 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070,
36 section 3 of this act, 86.16.020, 88.46.070, 90.14.130, 90.46.250,
37 90.48.120, and 90.56.330.

1 (c) Except as provided in RCW 90.03.210(2), the issuance,
2 modification, or termination of any permit, certificate, or license
3 by the department or any air authority in the exercise of its
4 jurisdiction, including the issuance or termination of a waste
5 disposal permit, the denial of an application for a waste disposal
6 permit, the modification of the conditions or the terms of a waste
7 disposal permit, or a decision to approve or deny an application for
8 a solid waste permit exemption under RCW 70A.205.260.

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

11 (e) Decisions of local health departments regarding the issuance
12 and enforcement of permits to use or dispose of biosolids under RCW
13 70A.226.090.

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

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

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

27 (i) Decisions of the department of natural resources, the
28 department of fish and wildlife, and the department that are
29 reviewable under chapter 76.09 RCW, and the department of natural
30 resources' appeals of county, city, or town objections under RCW
31 76.09.050(7).

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

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

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

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

5 (n) Decisions of the department of ecology that are appealable
6 under section 3 of this act to set recycled minimum postconsumer
7 content for covered products.

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

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

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

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

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

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

22 **Sec. 17.** RCW 43.21B.300 and 2020 c 20 s 1038 are each amended to
23 read as follows:

24 (1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160,
25 70A.205.280, 70A.300.090, 70A.20.050, sections 5, 6, 10, and 11 of
26 this act, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310,
27 90.56.330, and 90.64.102 and chapter 70A.355 RCW shall be imposed by
28 a notice in writing, either by certified mail with return receipt
29 requested or by personal service, to the person incurring the penalty
30 from the department or the local air authority, describing the
31 violation with reasonable particularity. For penalties issued by
32 local air authorities, within thirty days after the notice is
33 received, the person incurring the penalty may apply in writing to
34 the authority for the remission or mitigation of the penalty. Upon
35 receipt of the application, the authority may remit or mitigate the
36 penalty upon whatever terms the authority in its discretion deems
37 proper. The authority may ascertain the facts regarding all such
38 applications in such reasonable manner and under such rules as it may
39 deem proper and shall remit or mitigate the penalty only upon a

1 demonstration of extraordinary circumstances such as the presence of
2 information or factors not considered in setting the original
3 penalty.

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

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

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

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

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

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

30 (5) All penalties recovered shall be paid into the state treasury
31 and credited to the general fund except those penalties imposed
32 pursuant to RCW 18.104.155, which shall be credited to the
33 reclamation account as provided in RCW 18.104.155(7), RCW
34 70A.15.3160, the disposition of which shall be governed by that
35 provision, RCW 70A.300.090, which shall be credited to the model
36 toxics control operating account created in RCW 70A.305.180, RCW
37 90.56.330, which shall be credited to the coastal protection fund
38 created by RCW 90.48.390, and RCW 70A.355.070, which shall be
39 credited to the underground storage tank account created by RCW
40 70A.355.090.

1 **Sec. 18.** RCW 70A.220.020 and 2020 c 20 s 1228 are each amended
2 to read as follows:

3 ~~((1) The provisions of this section and any rules adopted under
4 this section shall be interpreted to conform with nationwide plastics
5 industry standards.~~

6 ~~(2)) Except as provided in RCW 70A.220.030(2), after January 1,
7 1992, no person may distribute, sell, or offer for sale in this state
8 a plastic bottle or rigid plastic container unless the container is
9 labeled with a code identifying the appropriate resin type used to
10 produce the structure of the container. ((The code shall consist of a
11 number placed within three triangulated arrows and letters placed
12 below the triangle of arrows. The triangulated arrows shall be
13 equilateral, formed by three arrows with the apex of each point of
14 the triangle at the midpoint of each arrow, rounded with a short
15 radius. The pointer (arrowhead) of each arrow shall be at the
16 midpoint of each side of the triangle with a short gap separating the
17 pointer from the base of the adjacent arrow. The triangle, formed by
18 the three arrows curved at their midpoints shall depict a clockwise
19 path around the code number.)) The numbers and letters used shall be
20 as follows:~~

- 21 (a) 1.= PETE (polyethylene terephthalate)
- 22 (b) 2.= HDPE (high density polyethylene)
- 23 (c) 3.= V (vinyl) or PVC (polyvinyl chloride)
- 24 (d) 4.= LDPE (low density polyethylene)
- 25 (e) 5.= PP (polypropylene)
- 26 (f) 6.= PS (polystyrene)
- 27 (g) 7.= OTHER

28 NEW SECTION. **Sec. 19.** Sections 2 through 7 and 9 through 15 of
29 this act constitute a new chapter in Title 70A RCW.

30 NEW SECTION. **Sec. 20.** If any provision of this act or its
31 application to any person or circumstance is held invalid, the
32 remainder of the act or the application of the provision to other
33 persons or circumstances is not affected."

34 Correct the title.

EFFECT: Postconsumer Recycled Content Requirements:

Exempts fortified oral nutritional supplements and oral hygiene products from minimum postconsumer recycled (PCR) content requirements;

Specifies that covered products subject to minimum postconsumer recycled content requirements do not include any containers or bags for which the state is preempted from regulating container or bag material content under federal law;

Consolidates provisions related to PCR requirements for plastic trash bags, household cleaning and personal care products that use plastic containers, and beverages that use plastic containers;

Defines or re-defines the terms "Producer", "Licensee", and "Covered Product," including amending the definition of "producer" to specify that a person other than a brand owner or manufacturer of a covered product is the "producer" responsible for meeting minimum postconsumer recycled content if the person imported or distributed a product in or into Washington, as opposed to imported it into the United States;

Establishes a deadline of April 2022 for producers of all covered products to register with the Department of Ecology (Ecology), rather than only requiring producers of beverages and plastic trash bags to register by that date;

Establishes annual charges for producers of each category of covered products beginning in 2022, for purposes of covering Ecology's administrative costs for that category of covered products;

Establishes civil penalties for the failure to register or report required PCR information by producers of covered products and for failure to label plastic trash bags, in addition to the per-pound penalties for failure to meet minimum PCR requirements;

Authorizes the exhaustion of existing stock through sales to the public of covered products by in-state distributors, wholesalers, and retailers for products manufactured prior to the effective date of minimum postconsumer recycled content requirements;

Specifies that Ecology may only adjust minimum PCR rates downwards for covered products that apply during the year following a PCR rate review;

Authorizes Ecology to begin adjusting minimum PCR rates in 2024 or whenever rule making is complete, rather than beginning in 2025;

Authorizes Ecology to adjust minimum PCR rates downwards for specific categories of covered products or types of containers within a category of covered product;

Requires producers who petition for minimum PCR rate adjustments to submit information necessary to allow Ecology to make a decision regarding PCR rate adjustment;

Authorizes Ecology to consider the implications of additional federal statutes and rules with respect to the technical feasibility of minimum PCR rates, when determining whether to adjust PCR rates downwards;

Requires Ecology to consider the technical feasibility of achieving minimum PCR requirements in all categories of covered products, when deciding whether to adjust the minimum PCR rate for a covered product;

Specifies that the amounts of virgin and PCR plastic used by a producer must be reported to Ecology as measured in pounds;

Delays until July 2024, the effective date of the state agency purchasing policy limiting purchases to products of plastic trash bag producers in compliance with PCR requirements.

Makes wine in 187 milliliter plastic beverage containers subject to the same timelines and minimum postconsumer recycled content requirements as dairy milk, as follows:

- (1) Beginning January 1, 2028, at a rate of 15 percent;

- (2) Beginning January 1, 2031, at a rate of 25 percent; and
- (3) Beginning January 1, 2036, at a rate of 50 percent.

Expanded Polystyrene Restrictions:

Delays the effective date of restrictions on expanded polystyrene food service containers and cold storage containers from June 1, 2023, to June 1, 2024.

"Upon Request" Single-use Food Service Products:

Authorizes all food service businesses to provide single-use utensils, straws, condiment packaging, and beverage cup lids to customers only after affirming that the customer wants the item, but without requiring food service businesses that provide food for on-site consumption to wait for a customer to request an item;

Allows certain large sports and music venues to provide beverage cup lids without customer affirmation;

Exempts health care facilities, health care providers, long-term care facilities, senior nutrition programs, at home delivered meals, services to individuals with developmental disabilities, and state psychiatric hospitals from requiring customer affirmation prior to providing a single-use food service product;

Applies restrictions on the provision of single-use food service products by the Department of Corrections and the Department of Children, Youth, and Families only to the extent operationally feasible and practicable;

Encourages all food services businesses to take actions in addition to these requirements to reduce single-use food service products.

Stakeholder Advisory Committee:

Changes the stakeholder advisory committee established to make recommendations related to recycled content requirements for plastic packaging by:

- (1) Requiring the Departments of Ecology and Commerce to select an impartial third-party facilitator housed in the recycling development center to support the stakeholder advisory committee;

- (2) Establishing qualifications for the facilitator, and duties for the facilitator that include providing information, providing staff and support to advisory committee meetings, and drafting reports and materials for advisory committee review;

- (3) Shifting the duties for selecting the stakeholder advisory committee members from the President of the Senate and Speaker of the House of Representatives to the third-party facilitator;

- (4) Eliminating the specific details that the stakeholder advisory committee must recommend, including the requirement that recommendations address definitions, registration of producers, and methods for determining responsible parties;

- (5) Clarifying that the stakeholder advisory committee's charge encompasses types of plastic packaging that are not subject to minimum recycled content requirements established under the bill;

- (6) Delaying the start of the stakeholder advisory committee until July 1, 2021, and the submission deadline for recommendations until December 1, 2021, and expiring the direction to form the stakeholder advisory committee in January 2022 rather than January 2023.

--- END ---