

E2SHB 1799 - S COMM AMD

By Committee on Environment, Energy & Technology

ADOPTED AS AMENDED 03/03/2022

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

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds that landfills
4 are a significant source of emissions of methane, a potent greenhouse
5 gas. Among other economic and environmental benefits, the diversion
6 of organic materials to productive uses will reduce methane
7 emissions.

8 (2) In order to reduce methane emissions associated with organic
9 materials, the legislature finds that it will be beneficial to
10 improve a variety of aspects of how organic materials and organic
11 material wastes are reduced, managed, incentivized, and regulated
12 under state law. Therefore, it is the intent of the legislature to
13 support the diversion of organic materials from landfills through a
14 variety of interventions to support productive uses of organic
15 material wastes, including by:

16 (a) Requiring some local governments to begin providing separated
17 organic material collection services within their jurisdictions in
18 order to increase volumes of organic materials collected and
19 delivered to composting and other organic material management
20 facilities and reduce the volumes of organic materials collected in
21 conjunction with other solid waste and delivered to landfills;

22 (b) Requiring local governments to consider state organic
23 material management goals and requirements in the development of
24 their local solid waste plans;

25 (c) Requiring some businesses to manage their organic material
26 wastes in a manner that does not involve landfilling them, in order
27 to address one significant source of organic materials that currently
28 frequently end up in landfills;

29 (d) Reducing legal liability risk barriers to the donation of
30 edible food in order to encourage the recovery of foods that might
31 otherwise be landfilled;

1 (e) Establishing the Washington center for sustainable food
2 management within the department of ecology in order to coordinate
3 and improve statewide food waste reduction and diversion efforts;

4 (f) Establishing various new funding and financial incentives
5 intended to increase composting and other forms of productive organic
6 materials management, helping to make the responsible management of
7 organic materials more cost-competitive with landfilling of organic
8 material wastes;

9 (g) Facilitating the siting of organic material management
10 facilities in order to ensure that adequate capacity exists to
11 process organic materials at the volumes necessary to achieve state
12 organic material diversion goals;

13 (h) Encouraging cities and counties to procure more of the
14 compost and finished products created from their organic material
15 wastes in order to support the economic viability of processes to
16 turn organic materials into finished products, and increasing the
17 likelihood that composting and other responsible organic material
18 management options are economically viable; and

19 (i) Amending standards related to the labeling of plastic and
20 compostable products in order to reduce contamination of the waste
21 streams handled by compost and organic material management facilities
22 and improve the economic viability of those responsible organic
23 material management options.

24 **PART 1**

25 **State Targets and Organic Material Waste Collection Requirements**

26 NEW SECTION. **Sec. 101.** A new section is added to chapter
27 70A.205 RCW to read as follows:

28 (1)(a) The state establishes a goal for the landfill disposal of
29 organic materials at a level representing a 75 percent reduction by
30 2030 in the statewide disposal of organic material waste, relative to
31 2015 levels.

32 (b) The state establishes a goal that no less than 20 percent of
33 the volume of edible food that was disposed of as of 2015 be
34 recovered for human consumption by 2025.

35 (2) The provisions of subsection (1) of this section are in
36 addition to the food waste reduction goals of RCW 70A.205.715(1).

1 NEW SECTION. **Sec. 102.** A new section is added to chapter
2 70A.205 RCW to read as follows:

3 (1) Beginning January 1, 2027, in each jurisdiction that
4 implements a local solid waste plan under RCW 70A.205.040:

5 (a) Source-separated organic solid waste collection services must
6 be provided at least every other week or at least 26 weeks annually
7 to:

8 (i) All residents; and

9 (ii) Nonresidential customers that generate more than .25 cubic
10 yard per week of organic materials for management; and

11 (b) All organic solid waste collected from residents and
12 businesses under (a) of this subsection must be managed through
13 organic materials management.

14 (2) A jurisdiction may charge and collect fees or rates for the
15 services provided under subsection (1) of this section, consistent
16 with the jurisdiction's authority to impose fees and rates under
17 chapters 35.21, 35A.21, 36.58, and 36.58A RCW.

18 (3) (a) Except as provided in (d) of this subsection, the
19 requirements of this section do not apply in a jurisdiction if the
20 department determines that the following apply:

21 (i) The jurisdiction disposed of less than 5,000 tons of solid
22 waste in the most recent year for which data is available; or

23 (ii) The jurisdiction has a total population of less than 25,000
24 people.

25 (b) The requirements of this section do not apply:

26 (i) In census tracts that have a population density of less than
27 75 people per square mile that are serviced by the jurisdiction and
28 located in unincorporated portions of a county, as determined by the
29 department, in counties not planning under chapter 36.70A RCW; and

30 (ii) Outside of urban growth areas designated pursuant to RCW
31 36.70A.110 in unincorporated portions of a county planning under
32 chapter 36.70A RCW.

33 (c) In addition to the exemptions in (a) and (b) of this
34 subsection, the department may issue a renewable waiver to
35 jurisdictions or portions of a jurisdiction under this subsection for
36 up to five years, based on consideration of factors including the
37 distance to organic materials management facilities, the sufficiency
38 of the capacity to manage organic materials at facilities to which
39 organic materials could feasibly and economically be delivered from
40 the jurisdiction, and restrictions in the transport of organic

1 materials under chapter 17.24 RCW. The department may adopt rules to
2 specify the type of information that a waiver applicant must submit
3 to the department and to specify the department's process for
4 reviewing and approving waiver applications.

5 (d) Beginning January 1, 2030, the department may adopt a rule to
6 require that the provisions of this section apply in the
7 jurisdictions identified in (b) and (c) of this subsection, but only
8 if the department determines that the goals established in section
9 101(1) of this act have not or will not be achieved.

10 (4) Any city that newly begins implementing an independent solid
11 waste plan under RCW 70A.205.040 after July 1, 2022, must meet the
12 requirements of subsection (1) of this section.

13 **Sec. 103.** RCW 70A.205.040 and 2010 c 154 s 2 are each amended to
14 read as follows:

15 (1) Each county within the state, in cooperation with the various
16 cities located within such county, shall prepare a coordinated,
17 comprehensive solid waste management plan. Such plan may cover two or
18 more counties. The purpose is to plan for solid waste and materials
19 reduction, collection, and handling and management services and
20 programs throughout the state, as designed to meet the unique needs
21 of each county and city in the state. When updating a solid waste
22 management plan developed under this chapter, after June 10, 2010,
23 local comprehensive plans must consider and plan for the following
24 handling methods or services:

25 (a) Source separation of recyclable materials and products,
26 organic materials, and wastes by generators;

27 (b) Collection of source separated materials;

28 (c) Handling and proper preparation of materials for reuse or
29 recycling;

30 (d) Handling and proper preparation of organic materials for
31 (~~composting or anaerobic digestion~~) organic materials management;
32 and

33 (e) Handling and proper disposal of nonrecyclable wastes.

34 (2) When updating a solid waste management plan developed under
35 this chapter, after June 10, 2010, each local comprehensive plan
36 must, at a minimum, consider methods that will be used to address the
37 following:

38 (a) Construction and demolition waste for recycling or reuse;

1 (b) Organic material including yard debris, food waste, and food
2 contaminated paper products for ~~((composting or anaerobic digestion))~~
3 organic materials management;

4 (c) Recoverable paper products for recycling;

5 (d) Metals, glass, and plastics for recycling; and

6 (e) Waste reduction strategies.

7 (3)(a) When newly developing, updating, or amending a
8 comprehensive solid waste management plan developed under this
9 chapter, after July 1, 2024, each local comprehensive solid waste
10 management plan must consider the transition to the requirements of
11 section 102 of this act, and each comprehensive solid waste
12 management plan implemented by a county must identify:

13 (i) The priority areas within the county for the establishment of
14 organic materials management facilities. Priority areas must be in
15 industrial zones, agricultural zones, or rural zones, and may not be
16 located in overburdened communities identified by the department of
17 ecology under chapter 70A.02 RCW. Priority areas should be designated
18 with an attempt to minimize incompatible uses and potential impacts
19 on residential areas; and

20 (ii) Organic materials management facility volumetric capacity
21 required to manage the county's organic materials in a manner
22 consistent with the goals of section 101 of this act.

23 (b) When newly developing, updating, or amending a comprehensive
24 solid waste management plan developed under this chapter, after
25 January 1, 2027, each local comprehensive solid waste management plan
26 must be consistent with the requirements of section 102 of this act.

27 (4) Each city shall:

28 (a) Prepare and deliver to the county auditor of the county in
29 which it is located its plan for its own solid waste management for
30 integration into the comprehensive county plan;

31 (b) Enter into an agreement with the county pursuant to which the
32 city shall participate in preparing a joint city-county plan for
33 solid waste management; or

34 (c) Authorize the county to prepare a plan for the city's solid
35 waste management for inclusion in the comprehensive county plan.

36 ~~((4))~~ (5) Two or more cities may prepare a plan for inclusion
37 in the county plan. With prior notification of its home county of its
38 intent, a city in one county may enter into an agreement with a city
39 in an adjoining county, or with an adjoining county, or both, to

1 prepare a joint plan for solid waste management to become part of the
2 comprehensive plan of both counties.

3 ~~((+5))~~ (6) After consultation with representatives of the cities
4 and counties, the department shall establish a schedule for the
5 development of the comprehensive plans for solid waste management. In
6 preparing such a schedule, the department shall take into account the
7 probable cost of such plans to the cities and counties.

8 ~~((+6))~~ (7) Local governments shall not be required to include a
9 hazardous waste element in their solid waste management plans.

10 NEW SECTION. **Sec. 104.** (1) The department of ecology must
11 contract with a third-party consultant to conduct a study of the
12 adequacy of local government solid waste management funding,
13 including options and recommendations to provide funding for solid
14 waste programs in the future if significant statewide policy changes
15 are enacted. The department must include the Washington association
16 of county solid waste managers, the association of Washington cities,
17 an association that represents the private sector solid waste
18 industry, and other stakeholders in scoping the study and reviewing
19 the consultant's findings and recommendations prior to submittal to
20 the legislature.

21 (2) The study must include:

22 (a) Consideration for jurisdictional type, location, size,
23 service level, and other relevant differences between cities and
24 counties;

25 (b) A review and update of current funding types and levels
26 available, and their rate of adoption;

27 (c) The funding needs to implement the solid waste core services
28 model developed by the Washington association of county solid waste
29 managers;

30 (d) Alternative funding models utilized by other publicly managed
31 solid waste programs in other states or countries that may be
32 relevant to Washington; and

33 (e) An evaluation of the impacts on solid waste funding resources
34 available to cities and counties from statewide solid waste
35 management policy proposals considered by the legislature or enacted
36 in the last four years, including proposals to:

37 (i) Reduce the quantity of organic waste to landfills;

38 (ii) Manage products through product stewardship or extended
39 producer responsibility programs;

- 1 (iii) Improve or install new or updated methane capture systems;
2 (iv) Increase postconsumer content requirements for materials
3 collected in solid waste programs; and
4 (v) Other related proposals that may impact solid waste funding
5 resources.

6 (3) The study must evaluate a range of forecasted fiscal impacts
7 for each type of policy change on local government solid waste
8 management programs, including:

- 9 (a) The level of service provided by local government;
10 (b) Costs to the local government;
11 (c) Existing revenue levels; and
12 (d) The need for additional revenue.

13 (4) The department must submit the report, including findings and
14 any recommendations, to the appropriate committees of the legislature
15 by July 1, 2023.

16 **Sec. 105.** RCW 70A.205.015 and 2020 c 20 s 1161 are each amended
17 to read as follows:

18 (~~As used in this chapter, unless the context indicates~~
19 ~~otherwise:~~) The definitions in this section apply throughout this
20 chapter unless the context clearly requires otherwise.

21 (1) "City" means every incorporated city and town.

22 (2) "Commission" means the utilities and transportation
23 commission.

24 (3) "Composted material" means organic solid waste that has been
25 subjected to controlled aerobic degradation at a solid waste facility
26 in compliance with the requirements of this chapter. Natural decay of
27 organic solid waste under uncontrolled conditions does not result in
28 composted material.

29 (4) "Department" means the department of ecology.

30 (5) "Director" means the director of the department of ecology.

31 (6) "Disposal site" means the location where any final treatment,
32 utilization, processing, or deposit of solid waste occurs.

33 (7) "Energy recovery" means a process operating under federal and
34 state environmental laws and regulations for converting solid waste
35 into usable energy and for reducing the volume of solid waste.

36 (8) "Functional standards" means criteria for solid waste
37 handling expressed in terms of expected performance or solid waste
38 handling functions.

1 (9) "Incineration" means a process of reducing the volume of
2 solid waste operating under federal and state environmental laws and
3 regulations by use of an enclosed device using controlled flame
4 combustion.

5 (10) "Inert waste landfill" means a landfill that receives only
6 inert waste, as determined under RCW 70A.205.030, and includes
7 facilities that use inert wastes as a component of fill.

8 (11) "Jurisdictional health department" means city, county, city-
9 county, or district public health department.

10 (12) "Landfill" means a disposal facility or part of a facility
11 at which solid waste is placed in or on land and which is not a land
12 treatment facility.

13 (13) "Local government" means a city, town, or county.

14 (14) "Modify" means to substantially change the design or
15 operational plans including, but not limited to, removal of a design
16 element previously set forth in a permit application or the addition
17 of a disposal or processing activity that is not approved in the
18 permit.

19 (15) "Multiple-family residence" means any structure housing two
20 or more dwelling units.

21 (16) "Person" means individual, firm, association, copartnership,
22 political subdivision, government agency, municipality, industry,
23 public or private corporation, or any other entity whatsoever.

24 (17) "Recyclable materials" means those solid wastes that are
25 separated for recycling or reuse, such as papers, metals, and glass,
26 that are identified as recyclable material pursuant to a local
27 comprehensive solid waste plan. Prior to the adoption of the local
28 comprehensive solid waste plan, adopted pursuant to RCW
29 70A.205.075(2), local governments may identify recyclable materials
30 by ordinance from July 23, 1989.

31 (18) "Recycling" means transforming or remanufacturing waste
32 materials into usable or marketable materials for use other than
33 landfill disposal or incineration.

34 (19) "Residence" means the regular dwelling place of an
35 individual or individuals.

36 (20) "Sewage sludge" means a semisolid substance consisting of
37 settled sewage solids combined with varying amounts of water and
38 dissolved materials, generated from a wastewater treatment system,
39 that does not meet the requirements of chapter 70A.226 RCW.

1 (21) "Soil amendment" means any substance that is intended to
2 improve the physical characteristics of the soil, except composted
3 material, commercial fertilizers, agricultural liming agents,
4 unmanipulated animal manures, unmanipulated vegetable manures, food
5 wastes, food processing wastes, and materials exempted by rule of the
6 department, such as biosolids as defined in chapter 70A.226 RCW and
7 wastewater as regulated in chapter 90.48 RCW.

8 (22) "Solid waste" or "wastes" means all putrescible and
9 nonputrescible solid and semisolid wastes including, but not limited
10 to, garbage, rubbish, ashes, industrial wastes, swill, sewage sludge,
11 demolition and construction wastes, abandoned vehicles or parts
12 thereof, and recyclable materials.

13 (23) "Solid waste handling" means the management, storage,
14 collection, transportation, treatment, utilization, processing, and
15 final disposal of solid wastes, including the recovery and recycling
16 of materials from solid wastes, the recovery of energy resources from
17 solid wastes or the conversion of the energy in solid wastes to more
18 useful forms or combinations thereof.

19 (24) "Source separation" means the separation of different kinds
20 of solid waste at the place where the waste originates.

21 (25) "Vehicle" includes every device physically capable of being
22 moved upon a public or private highway, road, street, or watercourse
23 and in, upon, or by which any person or property is or may be
24 transported or drawn upon a public or private highway, road, street,
25 or watercourse, except devices moved by human or animal power or used
26 exclusively upon stationary rails or tracks.

27 (26) "Waste-derived soil amendment" means any soil amendment as
28 defined in this chapter that is derived from solid waste as defined
29 in this section, but does not include biosolids or biosolids products
30 regulated under chapter 70A.226 RCW or wastewaters regulated under
31 chapter 90.48 RCW.

32 (27) "Waste reduction" means reducing the amount or toxicity of
33 waste generated or reusing materials.

34 (28) "Yard debris" means plant material commonly created in the
35 course of maintaining yards and gardens, and through horticulture,
36 gardening, landscaping, or similar activities. Yard debris includes
37 but is not limited to grass clippings, leaves, branches, brush,
38 weeds, flowers, roots, windfall fruit, vegetable garden debris,
39 holiday trees, and tree prunings four inches or less in diameter.

1 (29) (a) (i) "Organic materials" means any solid waste that is a
2 biological substance of plant or animal origin capable of microbial
3 degradation.

4 (ii) Organic materials include, but are not limited to, manure,
5 yard debris, food waste, food processing waste, wood waste, and
6 garden waste.

7 (b) "Organic materials" does not include any materials
8 contaminated by herbicides, pesticides, pests, or other sources of
9 chemical or biological contamination that would render a finished
10 product of an organic material management process unsuitable for
11 general public or agricultural use.

12 (30) "Organic materials management" means management of organic
13 materials through composting, anaerobic digestion, vermiculture,
14 black soldier fly, or similar technologies.

15 **PART 2**

16 **Requirements for Organics Management by Businesses**

17 NEW SECTION. Sec. 201. A new section is added to chapter
18 70A.205 RCW to read as follows:

19 (1) (a) Beginning July 1, 2023, and each July 1st thereafter, the
20 department must determine which counties and any cities preparing
21 independent solid waste management plans:

22 (i) Provide for businesses to be serviced by providers that
23 collect food waste and organic material waste for delivery to solid
24 waste facilities that provide for the organic materials management of
25 organic material waste and food waste; and

26 (ii) Are serviced by solid waste facilities that provide for the
27 organic materials management of organic material waste and food waste
28 and have capacity to accept increased volumes of organic materials
29 deliveries.

30 (b) (i) The department must determine and designate that the
31 restrictions of this section apply to businesses in a jurisdiction
32 unless the department determines that the businesses in some or all
33 portions of the city or county have:

34 (A) No available businesses that collect and deliver organic
35 materials to solid waste facilities that provide for the organic
36 materials management of organic material waste and food waste; or

1 (B) No available capacity at the solid waste facilities to which
2 businesses that collect and deliver organic materials could feasibly
3 and economically deliver organic materials from the jurisdiction.

4 (ii)(A) In the event that a county or city provides written
5 notification to the department indicating that the criteria of
6 (b)(i)(A) of this subsection are met, then the restrictions of this
7 section apply only in those portions of the jurisdiction that have
8 available service-providing businesses.

9 (B) In the event that a county or city provides written
10 notification to the department indicating that the criteria of
11 (b)(i)(B) of this subsection are met, then the restrictions of this
12 section do not apply to the jurisdiction.

13 (c) The department must make the result of the annual
14 determinations required under this section available on its website.

15 (d) The requirements of this section may be enforced by
16 jurisdictional health departments consistent with this chapter,
17 except that:

18 (i) A jurisdictional health department may not charge a fee to
19 permit holders to cover the costs of the jurisdictional health
20 department's administration or enforcement of the requirements of
21 this section; and

22 (ii) Prior to issuing a penalty under this section, a
23 jurisdictional health department must provide at least two written
24 notices of noncompliance with the requirements of this section to the
25 owner or operator of a business subject to the requirements of this
26 section.

27 (2)(a)(i) Beginning January 1, 2024, a business that generates at
28 least eight cubic yards of organic material waste per week must
29 arrange for organic materials management services specifically for
30 organic material waste;

31 (ii) Beginning January 1, 2025, a business that generates at
32 least four cubic yards of organic material waste per week must
33 arrange for organic materials management services specifically for
34 organic material waste; and

35 (iii) Beginning January 1, 2026, a business that generates at
36 least four cubic yards of solid waste per week shall arrange for
37 organic materials management services specifically for organic
38 material waste, unless the department determines, by rule, that
39 additional reductions in the landfilling of organic materials would
40 be more appropriately and effectively achieved, at reasonable cost to

1 regulated businesses, through the establishment of a different
2 volumetric threshold of solid waste or organic material waste than
3 the threshold of four cubic yards of solid waste per week.

4 (b) The following wastes do not count for purposes of determining
5 waste volumes in (a) of this subsection:

6 (i) Wastes that are managed on-site by the generating business;

7 (ii) Wastes generated from the growth and harvest of food or
8 fiber that are managed off-site by another business engaged in the
9 growth and harvest of food or fiber;

10 (iii) Wastes that are managed by a business that enters into a
11 voluntary agreement to sell or donate organic materials to another
12 business for off-site use; and

13 (iv) Wastes generated in exceptional volumes as a result of a
14 natural disaster or other infrequent and unpreventable event.

15 (3) A business may fulfill the requirements of this section by:

16 (a) Source separating organic material waste from other waste,
17 subscribing to a service that includes organic material waste
18 collection and organic materials management, and using such a service
19 for organic material waste generated by the business;

20 (b) Managing its organic material waste on-site or self-hauling
21 its own organic material waste for organic materials management;

22 (c) Qualifying for exclusion from the requirements of this
23 section consistent with subsection (1)(b) of this section; or

24 (d) For a business engaged in the growth, harvest, or processing
25 of food or fiber, entering into a voluntary agreement to sell or
26 donate organic materials to another business for off-site use.

27 (4)(a) A business generating organic material waste shall arrange
28 for any services required by this section in a manner that is
29 consistent with state and local laws and requirements applicable to
30 the collection, handling, or recycling of solid and organic material
31 waste.

32 (b) Nothing in this section requires a business to dispose of
33 materials in a manner that conflicts with federal or state public
34 health or safety requirements. Nothing in this section requires
35 businesses to dispose of wastes generated in exceptional volumes as a
36 result of a natural disaster or other infrequent and unpreventable
37 event through the options established in subsection (3) of this
38 section.

39 (5) When arranging for gardening or landscaping services, the
40 contract or work agreement between a business subject to this section

1 and a gardening or landscaping service must require that the organic
2 material waste generated by those services be managed in compliance
3 with this chapter.

4 (6) (a) This section does not limit the authority of a local
5 governmental agency to adopt, implement, or enforce a local organic
6 material waste recycling requirement, or a condition imposed upon a
7 self-hauler, that is more stringent or comprehensive than the
8 requirements of this chapter.

9 (b) This section does not modify, limit, or abrogate in any
10 manner any of the following:

11 (i) A franchise granted or extended by a city, county, city and
12 county, or other local governmental agency;

13 (ii) A contract, license, certificate, or permit to collect solid
14 waste previously granted or extended by a city, county, city and
15 county, or other local governmental agency;

16 (iii) The right of a business to sell or donate its organic
17 materials; and

18 (iv) A certificate of convenience and necessity issued to a solid
19 waste collection company under chapter 81.77 RCW.

20 (c) Nothing in this section modifies, limits, or abrogates the
21 authority of a local jurisdiction with respect to land use, zoning,
22 or facility siting decisions by or within that local jurisdiction.

23 (d) Nothing in this section changes or limits the authority of
24 the Washington utilities and transportation commission to regulate
25 collection of solid waste, including curbside collection of
26 residential recyclable materials, nor does this section change or
27 limit the authority of a city or town to provide the service itself
28 or by contract under RCW 81.77.020.

29 (7) The definitions in this subsection apply throughout this
30 section unless the context clearly indicates otherwise.

31 (a) (i) "Business" means a commercial or public entity including,
32 but not limited to, a firm, partnership, proprietorship, joint stock
33 company, corporation, or association that is organized as a for-
34 profit or nonprofit entity.

35 (ii) "Business" does not include a multifamily residential
36 entity.

37 (b) "Food waste" has the same meaning as defined in RCW
38 70A.205.715.

1 **Updates to the Washington Good Samaritan Act**

2 **Sec. 301.** RCW 69.80.031 and 1994 c 299 s 36 are each amended to
3 read as follows:

4 (1) This section may be cited as the "good samaritan food
5 donation act."

6 (2) (~~(As used in this section:)~~) The definitions in this
7 subsection apply throughout this section unless the context clearly
8 requires otherwise.

9 (a) "Apparently fit grocery product" means a grocery product that
10 meets (~~(all quality and)~~) safety and safety-related labeling
11 standards imposed by federal, state, and local laws and regulations
12 even though the product may not be readily marketable due to
13 appearance, age, freshness, grade, size, surplus, passage of a date
14 on a date label other than a safety or safety-related labeling of a
15 date, or other conditions.

16 (b) "Apparently wholesome food" means food that meets (~~(all~~
17 ~~quality and)~~) safety and safety-related labeling standards imposed by
18 federal, state, and local laws and regulations even though the food
19 may not be readily marketable due to appearance, age, freshness,
20 grade, size, surplus, passage of a date on a date label other than a
21 safety or safety-related labeling of a date, or other conditions.

22 (c) "Donate" means to give without requiring anything of monetary
23 value from the recipient, except that the term shall include giving
24 by a nonprofit organization to another nonprofit organization,
25 notwithstanding that the donor organization has charged a nominal fee
26 to the donee organization, if the ultimate recipient or user is not
27 required to give anything of monetary value.

28 (d) "Food" means a raw, cooked, processed, or prepared edible
29 substance, ice, beverage, or ingredient used or intended for use in
30 whole or in part for human consumption.

31 (e) "Gleaner" means a person who harvests for free distribution
32 to the needy, or for donation to a nonprofit organization for
33 ultimate distribution to the needy, an agricultural crop that has
34 been donated by the owner.

35 (f) "Grocery product" means a nonfood grocery product, including
36 a disposable paper or plastic product, household cleaning product,
37 laundry detergent, cleaning product, or miscellaneous household item.

38 (g) "Gross negligence" means voluntary and conscious conduct by a
39 person with knowledge, at the time of the conduct, that the conduct

1 is likely to be harmful to the health or well-being of another
2 person.

3 (h) "Intentional misconduct" means conduct by a person with
4 knowledge, at the time of the conduct, that the conduct is harmful to
5 the health or well-being of another person.

6 (i) "Nonprofit organization" means an incorporated or
7 unincorporated entity that:

8 (i) Is operating for religious, charitable, or educational
9 purposes; and

10 (ii) Does not provide net earnings to, or operate in any other
11 manner that inures to the benefit of, any officer, employee, or
12 shareholder of the entity.

13 (j) "Person" means an individual, corporation, partnership,
14 organization, association, or governmental entity, including a retail
15 grocer, wholesaler, hotel, motel, manufacturer, restaurant, caterer,
16 farmer, and nonprofit food distributor or hospital. In the case of a
17 corporation, partnership, organization, association, or governmental
18 entity, the term includes an officer, director, partner, deacon,
19 trustee, councilmember, or other elected or appointed individual
20 responsible for the governance of the entity.

21 (k) "Qualified direct donor" means any person required to obtain
22 a food establishment permit under chapter 246-215 WAC, as it existed
23 as of January 1, 2022, including a retail grocer, wholesaler,
24 agricultural producer, restaurant, caterer, school food authority, or
25 institution of higher education as defined in RCW 28B.10.016.

26 (l)(i) "Safety and safety-related labeling" means a marking
27 intended to communicate information to a consumer related to a food
28 product's safety. "Safety and safety-related labeling" includes any
29 marking that federal or state law requires to be affixed to a food
30 product including, but not limited to, markings placed on infant
31 formula consistent with 21 C.F.R. Sec. 107.20, as that regulation
32 existed as of January 1, 2021.

33 (ii) "Safety and safety-related labeling" does not include a pull
34 date required to be placed on perishable packaged food under RCW
35 15.130.300 or a "best by," "best if used by," "use by," or "sell by"
36 date or similarly phrased date intended to communicate information to
37 a consumer regarding the freshness or quality of a food product.

38 (3)(a) A person or gleaner is not subject to civil or criminal
39 liability arising from the nature, age, packaging, or condition of
40 apparently wholesome food or an apparently fit grocery product that

1 the person or gleaner donates in good faith to a nonprofit
2 organization for ultimate distribution to needy individuals, except
3 that this subsection does not apply to an injury to or death of an
4 ultimate user or recipient of the food or grocery product that
5 results from an act or omission of the donor constituting gross
6 negligence or intentional misconduct.

7 (b) A qualified direct donor may donate food directly to end
8 recipients for consumption. A qualified direct donor is not subject
9 to civil or criminal liability arising from the nature, age,
10 packaging, or condition of apparently wholesome food or an apparently
11 fit grocery product that the qualified direct donor donates in good
12 faith to a needy individual. The donation of nonperishable food that
13 is fit for human consumption, but that has exceeded the labeled
14 shelf-life date recommended by the manufacturer, is an activity
15 covered by the exclusion from civil or criminal liability under this
16 section.

17 (c) The donation of perishable food that is fit for human
18 consumption, but that has exceeded the labeled shelf-life date
19 recommended by the manufacturer, is an activity covered by the
20 exclusion from civil or criminal liability under this section if the
21 person that distributes the food to the end recipient makes a good
22 faith evaluation that the food to be donated is wholesome.

23 (4) A person who allows the collection or gleaning of donations
24 on property owned or occupied by the person by gleaners, or paid or
25 unpaid representatives of a nonprofit organization, for ultimate
26 distribution to needy individuals is not subject to civil or criminal
27 liability that arises due to the injury or death of the gleaner or
28 representative, except that this subsection does not apply to an
29 injury or death that results from an act or omission of the person
30 constituting gross negligence or intentional misconduct.

31 (5) If some or all of the donated food and grocery products do
32 not meet (~~(all quality and)~~) safety and safety-related labeling
33 standards imposed by federal, state, and local laws and regulations,
34 the person or gleaner who donates the food and grocery products is
35 not subject to civil or criminal liability in accordance with this
36 section if the nonprofit organization or other end recipient that
37 receives the donated food or grocery products:

38 (a) Is informed by the donor of the distressed or defective
39 condition of the donated food or grocery products;

1 (b) Agrees to recondition the donated food or grocery products to
2 comply with all the ~~((quality and))~~ safety and safety-related
3 labeling standards prior to distribution; and

4 (c) Is knowledgeable of the standards to properly recondition the
5 donated food or grocery product.

6 (6) This section may not be construed to create liability.

7 **PART 4**

8 **Washington Center for Sustainable Food Management**

9 NEW SECTION. **Sec. 401.** The definitions in this section apply
10 throughout this chapter unless the context clearly requires
11 otherwise.

12 (1) "Center" means the Washington center for sustainable food
13 management.

14 (2) "Department" means the department of ecology.

15 (3) "Organic material" has the same definition as provided in RCW
16 70A.205.015.

17 (4) "Plan" means the use food well Washington plan developed
18 under RCW 70A.205.715.

19 NEW SECTION. **Sec. 402.** (1) The Washington center for
20 sustainable food management is established within the department, to
21 begin operations by January 1, 2024.

22 (2) The purpose of the center is to help coordinate statewide
23 food waste reduction.

24 (3) The center may perform the following activities:

25 (a) Coordinate the implementation of the plan;

26 (b) Draft plan updates and measure progress towards actions,
27 strategies, and the statewide goals established in section 101 of
28 this act and RCW 70A.205.715(1);

29 (c) Maintain a website with current food waste reduction
30 information and guidance for food service establishments, consumers,
31 food processors, hunger relief organizations, and other sources of
32 food waste;

33 (d) Provide staff support to multistate food waste reduction
34 initiatives in which the state is participating;

35 (e) Maintain the consistency of the plan and other food waste
36 reduction activities with the work of the Washington state
37 conservation commission's food policy forum;

1 (f) Facilitate and coordinate public-private and nonprofit
2 partnerships focused on food waste reduction, including through
3 voluntary working groups;

4 (g) Collaborate with federal, state, and local government
5 partners on food waste reduction initiatives;

6 (h) Develop and maintain maps or lists of locations of the food
7 systems of Washington that identify food flows, where waste occurs,
8 and opportunities to prevent food waste;

9 (i) (i) Collect and maintain data on food waste and wasted food in
10 a manner that is generally consistent with the methods of collecting
11 and maintaining such data used by federal agencies or in other
12 jurisdictions, or both, to the greatest extent practicable;

13 (ii) Develop measurement methodologies and tools to uniformly
14 track food donation data, food waste prevention data, and associated
15 climate impacts resultant from food waste reduction efforts;

16 (j) Research and develop emerging organic materials and food
17 waste reduction markets;

18 (k) (i) Develop and maintain statewide food waste reduction and
19 food waste contamination reduction campaigns, in consultation with
20 other state agencies and other stakeholders, including the
21 development of waste prevention and food waste recovery promotional
22 materials for distribution. These promotional materials may include
23 online information, newsletters, bulletins, or handouts that inform
24 food service establishment operators about the protections from civil
25 and criminal liability under federal law and under RCW 69.80.031 when
26 donating food; and

27 (ii) Develop guidance to support the distribution of promotional
28 materials, including distribution by:

29 (A) Local health officers, at no cost to regulated food service
30 establishments, including as part of normal, routine inspections of
31 food service establishments; and

32 (B) State agencies, including the department of health and the
33 department of agriculture, in conjunction with their statutory roles
34 and responsibilities in regulating, monitoring, and supporting safe
35 food supply chains and systems;

36 (l) Distribute and monitor grants dedicated to food waste
37 prevention, rescue, and recovery; and

38 (m) Research and provide education, outreach, and technical
39 assistance to local governments in support of the adoption of solid
40 waste ordinances or policies that establish a financial disincentive

1 for the generation of organic waste and for the ultimate disposal of
2 organic materials in landfills.

3 (4) The department may enter into an interagency agreement with
4 the department of health, the department of agriculture, or other
5 state agencies as necessary to fulfill the responsibilities of the
6 center.

7 (5) The department may adopt any rules necessary to implement
8 this chapter including, but not limited to, measures for the center's
9 performance.

10 NEW SECTION. **Sec. 403.** A new section is added to chapter
11 70A.205 RCW to read as follows:

12 (1) In order to obtain data as necessary to support the goals of
13 the Washington center for sustainable food management created in
14 section 402 of this act and to achieve the goals of RCW
15 70A.205.715(1), the department may establish a voluntary reporting
16 protocol for the receipt of reports by businesses that donate food
17 under RCW 69.80.031 and recipients of the donated food, and may
18 encourage the use of this voluntary reporting protocol by the
19 businesses and recipients. The department may also request that a
20 donating business or recipient of donated food provide information to
21 the department regarding the volumes, types, and timing of food
22 managed by the donating facility or business, and food waste and
23 wasted food generated by the donating facility or business. To the
24 extent practicable, the department must seek to obtain information
25 under this section in a manner compatible with any information
26 reported to the department of agriculture under RCW 43.23.290, and in
27 a manner that minimizes the reporting and information-provision
28 burdens of donating businesses and recipients.

29 (2) For the purposes of this subsection, "food waste" and "wasted
30 food" have the same meaning as defined in RCW 70A.205.715.

31 **Sec. 404.** RCW 69.80.040 and 1983 c 241 s 4 are each amended to
32 read as follows:

33 The department of agriculture shall maintain an information and
34 referral service for persons and organizations that have notified the
35 department of their desire to participate in the food donation
36 program under this chapter. The department must coordinate with the
37 department of ecology to ensure that the information and referral

1 service required under this section is implemented in a manner
2 consistent with the activities of sections 402 and 403 of this act.

3 NEW SECTION. **Sec. 405.** (1) By January 1, 2025, and in
4 consultation with the office of the attorney general, the department
5 must research and adopt several model ordinances for optional use by
6 counties and cities that provide for model mechanisms for commercial
7 solid waste collection and disposal that are designed, in part, to
8 establish a financial disincentive or other disincentives for the
9 generation of organic waste and for the ultimate disposal of organic
10 materials in landfills. The model ordinances must be designed to
11 provide options that might be preferred by jurisdictions of different
12 sizes and consider other key criteria applicable to local solid waste
13 management circumstances.

14 (2) (a) The department must review the model ordinances created in
15 this section under the provisions of chapter 43.21C RCW.

16 (b) A county or city that adopts a model ordinance created by the
17 department under this section and that has been reviewed by the
18 department under the provisions of chapter 43.21C RCW is not required
19 to review the ordinance under the provisions of chapter 43.21C RCW.

20 (3) No city, town, or county is required to adopt the model
21 ordinances created in this section.

22 NEW SECTION. **Sec. 406.** A new section is added to chapter 43.21C
23 RCW to read as follows:

24 Amendments to regulations and other nonproject actions taken by a
25 city or county to adopt or implement the model ordinance created by
26 the department under section 405 of this act is not subject to the
27 requirements of this chapter.

28 **PART 5**

29 **Funding and Incentives for Methane Emissions Reduction Activities** 30 **Associated with Organic Materials Management**

31 **Sec. 501.** RCW 89.08.615 and 2020 c 351 s 3 are each amended to
32 read as follows:

33 (1) The commission shall develop a sustainable farms and fields
34 grant program in consultation with the department of agriculture,
35 Washington State University, and the United States department of
36 agriculture natural resources conservation service.

1 (2) As funding allows, the commission shall distribute funds, as
2 appropriate, to conservation districts and other public entities to
3 help implement the projects approved by the commission.

4 (3) No more than (~~fifteen~~) 15 percent of the funds may be used
5 by the commission to develop, or to consult or contract with private
6 or public entities, such as universities or conservation districts,
7 to develop:

8 (a) An educational public awareness campaign and outreach about
9 the sustainable farm and field program; or

10 (b) The grant program, including the production of analytical
11 tools, measurement estimation and verification methods, cost-benefit
12 measurements, and public reporting methods.

13 (4) No more than five percent of the funds may be used by the
14 commission to cover the administrative costs of the program.

15 (5) No more than (~~twenty~~) 20 percent of the funds may be
16 awarded to any single grant applicant.

17 (6) Allowable uses of grant funds include:

18 (a) Annual payments to enrolled participants for successfully
19 delivered carbon storage or reduction;

20 (b) Up-front payments for contracted carbon storage;

21 (c) Down payments on equipment;

22 (d) Purchases of equipment;

23 (e) Purchase of seed, seedlings, spores, animal feed, and
24 amendments;

25 (f) Services to landowners, such as the development of site-
26 specific conservation plans to increase soil organic levels or to
27 increase usage of precision agricultural practices, or design and
28 implementation of best management practices to reduce livestock
29 emissions; (~~and~~)

30 (g) The purchase of compost spreading equipment, or financial
31 assistance to farmers to purchase compost spreading equipment, for
32 the annual use for at least three years of volumes of compost
33 determined by the commission to be significant from materials
34 composted at a site that is not owned or operated by the farmer;

35 (h) Scientific studies to evaluate and quantify the greenhouse
36 gas emissions avoided as a result of using crop residues as a biofuel
37 feedstock or to identify management practices that increase the
38 greenhouse gas emissions avoided as a result of using crop residues
39 as a biofuel feedstock;

1 (i) Efforts to support the farm use of anaerobic digester
2 digestate, including scientific studies, education and outreach to
3 farmers, and the purchase or lease of digestate spreading equipment;
4 and

5 (j) Other equipment purchases or financial assistance deemed
6 appropriate by the commission to fulfill the intent of RCW 89.08.610
7 through 89.08.635.

8 (7) Grant applications are eligible for costs associated with
9 technical assistance.

10 (8) Conservation districts and other public entities may apply
11 for a single grant from the commission that serves multiple farmers.

12 (9) Grant applicants may apply to share equipment purchased with
13 grant funds. Applicants for equipment purchase grants issued under
14 this grant program may be farm, ranch, or aquaculture operations
15 coordinating as individual businesses or as formal cooperative
16 ventures serving farm, ranch, or aquaculture operations. Conservation
17 districts, separately or jointly, may also apply for grant funds to
18 operate an equipment sharing program.

19 (10) No contract for carbon storage or changes to management
20 practices may exceed (~~twenty-five~~) 25 years. Grant contracts that
21 include up-front payments for future benefits must be conditioned to
22 include penalties for default due to negligence on the part of the
23 recipient.

24 (11) The commission shall attempt to achieve a geographically
25 fair distribution of funds across a broad group of crop types, soil
26 management practices, and farm sizes.

27 (12) Any applications involving state lands leased from the
28 department of natural resources must include the department's
29 approval.

30 NEW SECTION. Sec. 502. A new section is added to chapter 15.04
31 RCW to read as follows:

32 (1)(a) Subject to the availability of amounts appropriated for
33 this specific purpose, the department must establish and implement a
34 compost reimbursement program to reimburse farming operations in the
35 state for purchasing and using compost products that were not
36 generated by the farming operation, including transportation,
37 spreading equipment, labor, fuel, and maintenance costs associated
38 with spreading equipment. The grant reimbursements under the program
39 begin July 1, 2023.

1 (b) For the purposes of this program, "farming operation" means:
2 A commercial agricultural, silvicultural, or aquacultural facility or
3 pursuit, including the care and production of livestock and livestock
4 products, poultry and poultry products, apiary products, and plant
5 and animal production for nonfood uses; the planting, cultivating,
6 harvesting, and processing of crops; and the farming or ranching of
7 any plant or animal species in a controlled salt, brackish, or
8 freshwater environment.

9 (2) To be eligible to participate in the reimbursement program, a
10 farming operation must complete an eligibility review with the
11 department prior to transporting or applying any compost products for
12 which reimbursement is sought under this section. The purpose of the
13 review is for the department to ensure that the proposed transport
14 and application of compost products is consistent with the
15 department's agricultural pest control rules established under
16 chapter 17.24 RCW. A farming operation must also verify that it will
17 allow soil sampling to be conducted by the department upon request
18 before compost application and until at least 10 years after the last
19 grant funding is used by the farming operation, as necessary to
20 establish a baseline of soil quality and carbon storage and for
21 subsequent department evaluations to assist the department's
22 reporting requirements under subsection (8) of this section.

23 (3) The department must create a form for eligible farming
24 operations to apply for cost reimbursement for costs from purchasing
25 and using compost from facilities with solid waste handling permits,
26 including transportation, equipment, spreading, and labor costs. All
27 applications for cost reimbursement must be submitted on the form
28 along with invoices, receipts, or other documentation acceptable to
29 the department of the costs of purchasing and using compost products
30 for which the applicant is requesting reimbursement, as well as a
31 brief description of what each purchased item will be used for. The
32 department may request that an applicant provide information to
33 verify the source, size, sale weight, or amount of compost products
34 purchased and the cost of transportation, equipment, spreading, and
35 labor. The applicant must also declare that it is not seeking
36 reimbursement for purchase or labor costs for:

37 (a) Its own compost products; or

38 (b) Compost products that it has transferred, or intends to
39 transfer, to another individual or entity, whether or not for
40 compensation.

1 (4) A farming operation may submit only one application per
2 fiscal year in which the program is in effect for purchases made and
3 usage costs incurred during the fiscal year that begins on July 1st
4 and ends on June 30th. Applications for reimbursement must be filed
5 before the end of the fiscal year in which purchases were made and
6 usage costs incurred.

7 (5) The department must distribute reimbursement funds, subject
8 to the following limitations:

9 (a) A farming operation is not eligible to receive reimbursement
10 if the farming operation's application was not found eligible for
11 reimbursement by the department under subsection (2) of this section
12 prior to the transport or use of compost;

13 (b) A farming operation is not eligible to receive reimbursement
14 for more than 50 percent of the costs it incurs each fiscal year for
15 the purchase and use of compost products, including transportation,
16 equipment, spreading, and labor costs;

17 (c) A farming operation is not eligible to receive more than
18 \$10,000 per fiscal year;

19 (d) A farming operation is not eligible to receive reimbursement
20 for its own compost products or compost products that it has
21 transferred, or intends to transfer, to another individual or entity,
22 whether or not for compensation; and

23 (e) A farming operation is not eligible to receive reimbursement
24 for compost products that were not purchased from a facility with a
25 solid waste handling permit.

26 (6) The applicant shall indemnify and hold harmless the state and
27 its officers, agents, and employees from all claims arising out of or
28 resulting from the compost products purchased that are subject to the
29 compost reimbursement program under this section.

30 (7) There is established within the department a compost
31 reimbursement program manager position. The compost reimbursement
32 program manager must possess knowledge and expertise in the area of
33 program management necessary to carry out the duties of the position,
34 which are to:

35 (a) Facilitate the division and distribution of available costs
36 for reimbursement; and

37 (b) Manage the day-to-day coordination of the compost
38 reimbursement program.

39 (8) In compliance with RCW 43.01.036, the department must submit
40 an annual report to the appropriate committees of the legislature by

1 January 15th of each year of the program in which grants have been
2 issued or completed. The report must include:

3 (a) The amount of compost for which reimbursement was sought
4 under the program;

5 (b) The qualitative or quantitative effects of the program on
6 soil quality and carbon storage; and

7 (c) A periodically updated evaluation of the benefits and costs
8 to the state of expanding or furthering the strategies promoted in
9 the program.

10 **Sec. 503.** RCW 43.155.020 and 2017 3rd sp.s. c 10 s 2 are each
11 amended to read as follows:

12 The definitions in this section apply throughout this chapter
13 unless the context clearly requires otherwise.

14 (1) "Board" means the public works board created in RCW
15 43.155.030.

16 (2) "Capital facility plan" means a capital facility plan
17 required by the growth management act under chapter 36.70A RCW or,
18 for local governments not fully planning under the growth management
19 act, a plan required by the public works board.

20 (3) "Department" means the department of commerce.

21 (4) "Financing guarantees" means the pledge of money in the
22 public works assistance account, or money to be received by the
23 public works assistance account, to the repayment of all or a portion
24 of the principal of or interest on obligations issued by local
25 governments to finance public works projects.

26 (5) "Local governments" means cities, towns, counties, special
27 purpose districts, and any other municipal corporations or quasi-
28 municipal corporations in the state excluding school districts and
29 port districts.

30 (6) "Public works project" means a project of a local government
31 for the planning, acquisition, construction, repair, reconstruction,
32 replacement, rehabilitation, or improvement of streets and roads,
33 bridges, water systems, or storm and sanitary sewage systems, lead
34 remediation of drinking water systems, and solid waste facilities,
35 including recycling facilities and composting and other organic
36 materials management facilities. A planning project may include the
37 compilation of biological, hydrological, or other data on a county,
38 drainage basin, or region necessary to develop a base of information
39 for a capital facility plan.

1 (7) "Solid waste or recycling project" means remedial actions
2 necessary to bring abandoned or closed landfills into compliance with
3 regulatory requirements and the repair, restoration, and replacement
4 of existing solid waste transfer, recycling facilities, and landfill
5 projects limited to the opening of landfill cells that are in
6 existing and permitted landfills.

7 (8) "Technical assistance" means training and other services
8 provided to local governments to: (a) Help such local governments
9 plan, apply, and qualify for loans, grants, and financing guarantees
10 from the board, and (b) help local governments improve their ability
11 to plan for, finance, acquire, construct, repair, replace,
12 rehabilitate, and maintain public facilities.

13 (9) "Value planning" means a uniform approach to assist in
14 decision making through systematic evaluation of potential
15 alternatives to solving an identified problem.

16 **PART 6**

17 **Organic Materials Management Facility Siting**

18 **Sec. 601.** RCW 36.70.330 and 1985 c 126 s 3 are each amended to
19 read as follows:

20 The comprehensive plan shall consist of a map or maps, and
21 descriptive text covering objectives, principles and standards used
22 to develop it, and shall include each of the following elements:

23 (1) A land use element which designates the proposed general
24 distribution and general location and extent of the uses of land for
25 agriculture, housing, commerce, industry, recreation, education,
26 public buildings and lands, and other categories of public and
27 private use of land, including a statement of the standards of
28 population density and building intensity recommended for the various
29 areas in the jurisdiction and estimates of future population growth
30 in the area covered by the comprehensive plan, all correlated with
31 the land use element of the comprehensive plan. The land use element
32 shall also provide for protection of the quality and quantity of
33 groundwater used for public water supplies and shall review drainage,
34 flooding, and stormwater runoff in the area and nearby jurisdictions
35 and provide guidance for corrective actions to mitigate or cleanse
36 those discharges that pollute Puget Sound or waters entering Puget
37 Sound. Development regulations to implement comprehensive plans under
38 this chapter that are newly developed, updated, or amended after

1 January 1, 2025, must allow for the siting of organic materials
2 management facilities in the areas identified in RCW
3 70A.205.040(3)(a)(i) to the extent necessary to provide for the
4 establishment of the organic materials management volumetric capacity
5 identified under RCW 70A.205.040(3)(a)(ii);

6 (2) A circulation element consisting of the general location,
7 alignment and extent of major thoroughfares, major transportation
8 routes, trunk utility lines, and major terminal facilities, all of
9 which shall be correlated with the land use element of the
10 comprehensive plan;

11 (3) Any supporting maps, diagrams, charts, descriptive material
12 and reports necessary to explain and supplement the above elements.

13 NEW SECTION. Sec. 602. A new section is added to chapter 36.70A
14 RCW to read as follows:

15 Development regulations to implement comprehensive plans under
16 this chapter that are newly developed, updated, or amended after
17 January 1, 2025, must allow for the siting of organic materials
18 management facilities in the areas identified in RCW
19 70A.205.040(3)(a)(i) to the extent necessary to provide for the
20 establishment of the organic materials management volumetric capacity
21 identified under RCW 70A.205.040(3)(a)(ii).

22 NEW SECTION. Sec. 603. A new section is added to chapter 35.63
23 RCW to read as follows:

24 For cities not planning under RCW 36.70A.040, development
25 regulations to implement comprehensive plans under RCW 35.63.100 that
26 are newly developed, updated, or amended after January 1, 2025, must
27 allow for the siting of organic materials management facilities in
28 the areas identified by the county in which the city is located under
29 RCW 70A.205.040(3)(a)(i) to the extent necessary to provide for the
30 establishment of the organic materials management volumetric capacity
31 identified under RCW 70A.205.040(3)(a)(ii).

32 NEW SECTION. Sec. 604. A new section is added to chapter 35A.63
33 RCW to read as follows:

34 For cities not planning under RCW 36.70A.040, development
35 regulations to implement comprehensive plans required under RCW
36 35A.63.060 that are newly developed, updated, or amended after
37 January 1, 2025, must allow for the siting of organic materials

1 management facilities in the areas identified by the county in which
2 the city is located under RCW 70A.205.040(3)(a)(i) to the extent
3 necessary to provide for the establishment of the organic materials
4 management volumetric capacity identified under RCW
5 70A.205.040(3)(a)(ii).

6 **PART 7**

7 **Organic Materials Procurement**

8 NEW SECTION. **Sec. 701.** A new section is added to chapter 43.19A
9 RCW to read as follows:

10 (1) By January 1, 2023, the following cities or counties shall
11 adopt a compost procurement ordinance to implement RCW 43.19A.120:

12 (a) Each city or county with a population greater than 25,000
13 residents as measured by the office of financial management using the
14 most recent population data available; and

15 (b) Each city or county in which organic material collection
16 services are provided under chapter 70A.205 RCW.

17 (2) A city or county that newly exceeds a population of 25,000
18 residents after January 1, 2023, as measured by the office of
19 financial management, must adopt an ordinance under this subsection
20 no later than 12 months after the office of financial management's
21 determination that the local government's population has exceeded
22 25,000.

23 (3) In developing a compost procurement ordinance, each city and
24 county shall plan for the use of compost in the following categories:

25 (a) Landscaping projects;

26 (b) Construction and postconstruction soil amendments;

27 (c) Applications to prevent erosion, filter stormwater runoff,
28 promote vegetation growth, or improve the stability and longevity of
29 roadways; and

30 (d) Low-impact development and green infrastructure to filter
31 pollutants or keep water on-site, or both.

32 (4) Each city or county that adopts an ordinance under subsection
33 (1) or (2) of this section must develop strategies to inform
34 residents about the value of compost and how the jurisdiction uses
35 compost in its operations in the jurisdiction's comprehensive solid
36 waste management plan pursuant to RCW 70A.205.045.

37 (5) By December 31, 2024, and each December 31st of even-numbered
38 years thereafter, each city or county that adopts an ordinance under

1 subsection (1) or (2) of this section must submit a report covering
2 the previous year's compost procurement activities to the department
3 of ecology that contains the following information:

4 (a) The total tons of organic material diverted throughout the
5 year;

6 (b) The volume and cost of compost purchased throughout the year;
7 and

8 (c) The source or sources of the compost.

9 (6) Cities and counties that are required to adopt an ordinance
10 under subsection (1) or (2) of this section shall give priority to
11 purchasing compost products from companies that produce compost
12 products locally, are certified by a nationally recognized
13 organization, and produce compost products that are derived from
14 municipal solid waste compost programs and meet quality standards
15 comparable to standards adopted by the department of transportation
16 or adopted by rule by the department of ecology.

17 (7) Cities and counties may enter into collective purchasing
18 agreements if doing so is more cost-effective or efficient.

19 (8) Nothing in this section requires a compost processor to:

20 (a) Enter into a purchasing agreement with a city or county;

21 (b) Sell finished compost to meet this requirement; or

22 (c) Accept or process food waste or compostable products.

23 **Sec. 702.** RCW 39.30.040 and 2013 c 24 s 1 are each amended to
24 read as follows:

25 (1) Whenever a unit of local government is required to make
26 purchases from the lowest bidder or from the supplier offering the
27 lowest price for the items desired to be purchased, the unit of local
28 government may, at its option when awarding a purchase contract, take
29 into consideration tax revenue it would receive from purchasing the
30 supplies, materials, or equipment from a supplier located within its
31 boundaries. The unit of local government must award the purchase
32 contract to the lowest bidder after such tax revenue has been
33 considered. However, any local government may allow for preferential
34 purchase of products made from recycled materials or products that
35 may be recycled or reused. Any local government may allow for
36 preferential purchase of compost to meet the requirements of RCW
37 43.19A.120. Any unit of local government which considers tax revenue
38 it would receive from the imposition of taxes upon a supplier located

1 within its boundaries must also consider tax revenue it would receive
2 from taxes it imposes upon a supplier located outside its boundaries.

3 (2) A unit of local government may award a contract to a bidder
4 submitting the lowest bid before taxes are applied. The unit of local
5 government must provide notice of its intent to award a contract
6 based on this method prior to bids being submitted. For the purposes
7 of this subsection (2), "taxes" means only those taxes that are
8 included in "tax revenue" as defined in this section.

9 (3) The definitions in this subsection apply throughout this
10 section unless the context clearly requires otherwise.

11 (a) "Tax revenue" means sales taxes that units of local
12 government impose upon the sale of supplies, materials, or equipment
13 from the supplier to units of local government, and business and
14 occupation taxes that units of local government impose upon the
15 supplier that are measured by the gross receipts of the supplier from
16 the sale.

17 (b) "Unit of local government" means any county, city, town,
18 metropolitan municipal corporation, public transit benefit area,
19 county transportation authority, or other municipal or quasi-
20 municipal corporation authorized to impose sales and use taxes or
21 business and occupation taxes.

22 NEW SECTION. **Sec. 703.** A new section is added to chapter 43.19A
23 RCW to read as follows:

24 A contract by a local government or state agency must require the
25 use of compost products to the maximum extent economically feasible
26 to meet the requirements established in RCW 43.19A.120.

27 **PART 8**

28 **Product Degradability Labeling**

29 **Sec. 801.** RCW 70A.455.010 and 2019 c 265 s 1 are each amended to
30 read as follows:

31 (1) The legislature finds and declares that it is the public
32 policy of the state that:

33 (a) Environmental marketing claims for plastic products, whether
34 implicit or implied, should adhere to uniform and recognized
35 standards for "compostability" and "biodegradability," since
36 misleading, confusing, and deceptive labeling can negatively impact
37 local composting programs and compost processors. Plastic products

1 marketed as being "compostable" should be readily and easily
2 identifiable as meeting these standards;

3 (b) Legitimate and responsible packaging and plastic product
4 manufacturers are already properly labeling their compostable
5 products, but many manufacturers are not. Not all compost facilities
6 and their associated processing technologies accept or are required
7 to accept compostable packaging as feedstocks. However, implementing
8 a standardized system and test methods may create the ability for
9 them to take these products in the future.

10 (2) Therefore, it is the intent of the legislature to authorize
11 the (~~state's attorney general and local governments~~) department of
12 ecology, cities, and counties to pursue false or misleading
13 environmental claims and "greenwashing" for plastic products claiming
14 to be "compostable" or "biodegradable" when in fact they are not.

15 **Sec. 802.** RCW 70A.455.020 and 2019 c 265 s 2 are each amended to
16 read as follows:

17 The definitions in this section apply throughout this chapter
18 unless the context clearly requires otherwise.

19 (1) "ASTM" means the American society for testing and materials.

20 (2) "Biodegradable mulch film" means film plastic used as a
21 technical tool in commercial farming applications that biodegrades in
22 soil after being used, and:

23 (a) The film product fulfills plant growth and regulated metals
24 requirements of ASTM D6400; and

25 (b) (i) Meets the requirements of Vincotte's "OK Biodegradable
26 Soil" certification scheme, as that certification existed as of
27 January 1, 2019;

28 (ii) At ambient temperatures and in soil, shows at least
29 (~~ninety~~) 90 percent biodegradation absolute or relative to
30 microcrystalline cellulose in less than two years' time, tested
31 according to ISO 17556 or ASTM 5988 standard test methods, as those
32 test methods existed as of January 1, 2019; or

33 (iii) Meets the requirements of EN 17033 "plastics-biodegradable
34 mulch films for use in agriculture and horticulture" as it existed on
35 January 1, 2019.

36 (3) "Federal trade commission guides" means the United States
37 federal trade commission's guides for the use of environmental
38 marketing claims (Part 260, commencing at section 260.1),
39 compostability claims, including section 260.8, and degradation

1 claims (subchapter B of chapter I of Title 16 of the Code of Federal
2 Regulations), as those guides existed as of January 1, 2019.

3 (4) "Film product" means a bag, sack, wrap, or other sheet film
4 product.

5 (5) "Food service product" (~~means a product including, but not~~
6 ~~limited to, containers, plates, bowls, cups, lids, meat trays,~~
7 ~~straws, deli rounds, cocktail picks, splash sticks, condiment~~
8 ~~packaging, clam shells and other hinged or lidded containers,~~
9 ~~sandwich wrap, utensils, sachets, portion cups, and other food~~
10 ~~service products that are intended for one-time use and used for food~~
11 ~~or drink offered for sale or use)) has the same meaning as defined in
12 RCW 70A.245.010.~~

13 (6) (~~"Manufacturer" means a person, firm, association,~~
14 ~~partnership, or corporation that produces a product.~~

15 ~~(7))~~ "Person" means individual, firm, association,
16 copartnership, political subdivision, government agency,
17 municipality, industry, public or private corporation, or any other
18 entity whatsoever.

19 (~~(8))~~ (7) "Plastic food packaging and food service products"
20 means food packaging and food service products that is composed of:

21 (a) Plastic; or

22 (b) Fiber or paper with a plastic coating, window, component, or
23 additive.

24 (~~(9))~~ (8) "Plastic product" means a product made of plastic,
25 whether alone or in combination with another material including, but
26 not limited to, paperboard. A plastic product includes, but is not
27 limited to, any of the following:

28 (a) A product or part of a product that is used, bought, or
29 leased for use by a person for any purpose;

30 (b) A package or a packaging component including, but not limited
31 to, packaging peanuts;

32 (c) A film product; or

33 (d) Plastic food packaging and food service products.

34 (~~(10))~~ (9) "Standard specification" means either:

35 (a) ASTM D6400 - standard specification labeling of plastics
36 designed to be aerobically composted in municipal or industrial
37 facilities, as it existed as of January 1, 2019; or

38 (b) ASTM D6868 - standard specification for labeling of end items
39 that incorporate plastics and polymers as coatings or additives with
40 paper and other substrates designed to be aerobically composted in

1 municipal or industrial facilities, as it existed as of January 1,
2 2019.

3 ~~((11) (a) "Supplier" means a person, firm, association,~~
4 ~~partnership, company, or corporation that sells, offers for sale,~~
5 ~~offers for promotional purposes, or takes title to a product.~~

6 ~~(b) "Supplier" does not include a person, firm, association,~~
7 ~~partnership, company, or corporation that sells products to end users~~
8 ~~as a retailer.~~

9 ~~(12))~~ (10) "Utensil" means a product designed to be used by a
10 consumer to facilitate the consumption of food or beverages,
11 including knives, forks, spoons, cocktail picks, chopsticks, splash
12 sticks, and stirrers.

13 (11) "Department" means the department of ecology.

14 (12) "Producer" means the following person responsible for
15 compliance under this chapter for a product sold, offered for sale,
16 or distributed in or into this state:

17 (a) If the product is sold under the manufacturer's own brand or
18 lacks identification of a brand, the producer is the person who
19 manufactures the product;

20 (b) If the product is manufactured by a person other than the
21 brand owner, the producer is the person that is the licensee of a
22 brand or trademark under which a product is used in a commercial
23 enterprise, sold, offered for sale, or distributed in or into this
24 state, whether or not the trademark is registered in this state,
25 unless the manufacturer or brand owner of the product has agreed to
26 accept responsibility under this chapter; or

27 (c) If there is no person described in (a) and (b) of this
28 subsection over whom the state can constitutionally exercise
29 jurisdiction, the producer is the person who imports or distributes
30 the product in or into the state.

31 **Sec. 803.** RCW 70A.455.040 and 2019 c 265 s 4 are each amended to
32 read as follows:

33 (1) ~~((a))~~ A product labeled as "compostable" that is sold,
34 offered for sale, or distributed for use in Washington by a
35 ~~((supplier or manufacturer))~~ producer must:

36 ~~((i))~~ (a) Meet ASTM standard specification D6400;

37 ~~((ii))~~ (b) Meet ASTM standard specification D6868; or

38 ~~((iii))~~ (c) Be comprised of wood, which includes renewable
39 wood, or fiber-based substrate only;

1 ~~((b))~~ (2) A product described in ~~((a)(i) or (ii) of this)~~
2 subsection (1)(a) or (b) of this section must:

3 ~~((i))~~ (a) Meet labeling requirements established under the
4 United States federal trade commission's guides; and

5 ~~((ii))~~ (b) Feature labeling that:

6 ~~((A))~~ (i) Meets industry standards for being distinguishable
7 upon quick inspection in both public sorting areas and in processing
8 facilities;

9 ~~((B))~~ (ii) Uses a logo indicating the product has been
10 certified by a recognized third-party independent verification body
11 as meeting the ASTM standard specification; ~~(and~~

12 ~~(C))~~ (iii) Displays the word "compostable," where possible,
13 indicating the product has been tested by a recognized third-party
14 independent body and meets the ASTM standard specification; and

15 (iv) Uses green, beige, or brown labeling, color striping, or
16 other green, beige, or brown symbols, colors, tinting, marks, or
17 design patterns that help differentiate compostable items from
18 noncompostable items.

19 ~~((2) A compostable product described in subsection (1)(a)(i) or~~
20 ~~(ii) of this section must be considered compliant with the~~
21 ~~requirements of this section if it:~~

22 ~~(a) Has green or brown labeling;~~

23 ~~(b) Is labeled as compostable; and~~

24 ~~(c) Uses distinctive color schemes, green or brown color~~
25 ~~striping, or other adopted symbols, colors, marks, or design patterns~~
26 ~~that help differentiate compostable items from noncompostable~~
27 ~~materials.)~~

28 **Sec. 804.** RCW 70A.455.050 and 2019 c 265 s 5 are each amended to
29 read as follows:

30 (1) A ~~((manufacturer or supplier))~~ producer of a film bag that
31 meets ASTM standard specification D6400 and is distributed or sold by
32 retailers must ensure that the film bag is readily and easily
33 identifiable from other film bags in a manner that is consistent with
34 the federal trade commission guides.

35 (2) For purposes of this section, "readily and easily
36 identifiable" products must meet the following requirements:

37 (a) Be labeled with a certification logo indicating the bag meets
38 the ASTM D6400 standard specification if the bag has been certified

1 as meeting that standard by a recognized third-party independent
2 verification body;

3 (b) Be labeled in accordance with one of the following:

4 (i) The bag is tinted or made of a uniform color of green, beige,
5 or brown and labeled with the word "compostable" on one side of the
6 bag and the label must be at least one inch in height; or

7 (ii) Be labeled with the word "compostable" on both sides of the
8 bag and the label must be one of the following:

9 (A) Green, beige, or brown color lettering at least one inch in
10 height; or

11 (B) Within a contrasting green, beige, or brown color band of at
12 least one inch in height on both sides of the bag with color
13 contrasting lettering of at least one-half inch in height; and

14 (c) Meet industry standards for being distinguishable upon quick
15 inspection in both public sorting areas and in processing facilities.

16 (3) If a bag is smaller than (~~fourteen~~) 14 inches by
17 (~~fourteen~~) 14 inches, the lettering and stripe required under
18 subsection (2)(b)(ii) of this section must be in proportion to the
19 size of the bag.

20 (4) A film bag that meets ASTM standard specification D6400 that
21 is sold or distributed in this state may not display a chasing arrow
22 resin identification code or recycling type of symbol in any form.

23 (5) A (~~manufacturer or supplier~~) producer is required to comply
24 with this section only to the extent that the labeling requirements
25 do not conflict with the federal trade commission guides.

26 **Sec. 805.** RCW 70A.455.060 and 2020 c 20 s 1446 are each amended
27 to read as follows:

28 (1)(a) A (~~manufacturer or supplier~~) producer of plastic food
29 service products or film products that meet ASTM standard
30 specification D6400 or ASTM standard specification D6868 must ensure
31 that the items are readily and easily identifiable from other plastic
32 food service products or plastic film products in a manner that is
33 consistent with the federal trade commission guides.

34 (b) Film bags are exempt from the requirements of this section,
35 and are instead subject to the requirements of RCW 70A.455.050.

36 (2) For the purposes of this section, "readily and easily
37 identifiable" products must:

1 (a) Be labeled with a logo indicating the product has been
2 certified by a recognized third-party independent verification body
3 as meeting the ASTM standard specification;

4 (b) Be labeled with the word "compostable," where possible,
5 indicating the food packaging or film product has been tested by a
6 recognized third-party independent body and meets the ASTM standard
7 specification; (~~and~~)

8 (c) Meet industry standards for being distinguishable upon quick
9 inspection in both public sorting areas and in processing facilities;
10 and

11 (d) Be at least partially colored or partially tinted green,
12 beige, or brown, or have a green, beige, or brown stripe or band at
13 least .25 inches wide.

14 (3) (~~(A compostable product described in subsection (1) of this~~
15 ~~section must be considered compliant with the requirements of this~~
16 ~~section if it:~~

17 ~~(a) Has green or brown labeling;~~

18 ~~(b) Is labeled as compostable; and~~

19 ~~(c) Uses distinctive color schemes, green or brown color~~
20 ~~striping, or other adopted symbols, colors, marks, or design patterns~~
21 ~~that help differentiate compostable items from noncompostable~~
22 ~~materials.~~

23 ~~(4))~~ It is encouraged that each product described in subsection
24 (1) of this section(~~(:~~

25 ~~(a) Display))~~ display labeling language via printing, embossing,
26 or compostable adhesive stickers using, when possible, either the
27 colors green, beige, or brown that contrast with background product
28 color for easy identification(~~(:~~~~or~~

29 ~~(b) Be tinted green or brown)).~~

30 (~~(5))~~) (4) Graphic elements are encouraged to increase
31 legibility of the word "compostable" and overall product distinction
32 that may include text boxes, stripes, bands, or a green, beige, or
33 brown tint of the product.

34 (~~(6))~~) (5) A (~~(manufacturer or supplier))~~ producer is required
35 to comply with this section only to the extent that the labeling
36 requirements do not conflict with the federal trade commission
37 guides.

38 **Sec. 806.** RCW 70A.455.070 and 2020 c 20 s 1447 are each amended
39 to read as follows:

1 (1) A ((~~manufacturer or supplier of film products or food service~~
2 ~~products~~) producer of plastic film bags sold, offered for sale, or
3 distributed for use in Washington that does not meet the applicable
4 ASTM standard specifications provided in RCW 70A.455.050 ((and
5 70A.455.060)) is:

6 ((~~(1)~~)) (a) Prohibited from using tinting, color schemes,
7 labeling, ((and)) or terms that are required of products that meet
8 the applicable ASTM standard specifications under RCW 70A.455.050
9 ((and 70A.455.060));

10 ((~~(2)~~)) (b) Discouraged from using ((~~coloration,~~) labeling,
11 images, and terms that may reasonably be anticipated to confuse
12 consumers into believing that noncompostable ((~~bags and food service~~
13 packaging)) products are compostable; and

14 ((~~(3)~~)) (c) Encouraged to use ((~~coloration,~~) labeling, images,
15 and terms to help consumers identify noncompostable bags ((and food
16 service packaging)) as either: ((~~(a)~~)) (i) Suitable for recycling; or
17 ((~~(b)~~)) (ii) necessary to dispose as waste.

18 (2) A producer of food service products, or plastic film products
19 other than plastic film bags subject to subsection (1) of this
20 section, sold, offered for sale, or distributed for use in Washington
21 that does not meet the applicable ASTM standard specifications
22 provided in RCW 70A.455.060 is:

23 (a) Prohibited from using labeling, or terms that are required of
24 products that meet the applicable ASTM standard specifications under
25 RCW 70A.455.060;

26 (b) Discouraged from using labeling, images, and terms that may
27 reasonably be anticipated to confuse consumers into believing that
28 noncompostable products are compostable; and

29 (c) Encouraged to use tinting, coloration, labeling, images, and
30 terms to help consumers identify film products and food service
31 packaging as either: (i) Suitable for recycling; or (ii) necessary to
32 dispose as waste.

33 **Sec. 807.** RCW 70A.455.080 and 2019 c 265 s 8 are each amended to
34 read as follows:

35 (1) Upon the request by a person, including the department, a
36 ((~~manufacturer or supplier~~)) producer shall submit to that person or
37 the department, within ((~~ninety~~)) 90 days of the request,
38 nonconfidential business information and documentation demonstrating

1 compliance with this chapter, in a format that is easy to understand
2 and scientifically accurate.

3 (2) Upon request by a commercial compost processing facility,
4 (~~manufacturers~~) producers of compostable products are encouraged to
5 provide the facility with information regarding the technical aspects
6 of a commercial composting environment, such as heat or moisture, in
7 which the (~~manufacturer's~~) producer's product has been field tested
8 and found to degrade.

9 **Sec. 808.** RCW 70A.455.090 and 2020 c 20 s 1448 are each amended
10 to read as follows:

11 (1) (a) The (~~state, acting through the attorney general,~~)
12 department and cities and counties have concurrent authority to
13 enforce this chapter and to issue and collect civil penalties for a
14 violation of this chapter, subject to the conditions in this section
15 and RCW 70A.455.100. An enforcing government entity may impose a
16 civil penalty in the amount of up to (~~two thousand dollars~~) \$2,000
17 for the first violation of this chapter, up to (~~five thousand~~
18 ~~dollars~~) \$5,000 for the second violation of this chapter, and up to
19 (~~ten thousand dollars~~) \$10,000 for the third and any subsequent
20 violation of this chapter. If a (~~manufacturer or supplier~~) producer
21 has paid a prior penalty for the same violation to a different
22 government entity with enforcement authority under this subsection,
23 the penalty imposed by a government entity is reduced by the amount
24 of the payment.

25 (b) The enforcement of this chapter must be based primarily on
26 complaints filed with the department and cities and counties. The
27 department must establish a forum for the filing of complaints.
28 Cities, counties, or any person may file complaints with the
29 department using the forum, and cities and counties may review
30 complaints filed with the department via the forum. The forum
31 established by the department may include a complaint form on the
32 department's website, a telephone hotline, or a public outreach
33 strategy relying upon electronic social media to receive complaints
34 that allege violations. The department, in collaboration with the
35 cities and counties, must provide education and outreach activities
36 to inform retail establishments, consumers, and producers about the
37 requirements of this chapter.

38 (2) (~~Any civil penalties collected pursuant to this section must~~
39 ~~be paid to the office of the city attorney, city prosecutor, district~~

1 ~~attorney, or attorney general, whichever office brought the action.~~
2 ~~Penalties collected by the attorney general on behalf of the state~~
3 ~~must be deposited in the compostable products revolving account~~
4 ~~created in RCW 70A.455.110)) Penalties issued by the department are~~
5 ~~appealable to the pollution control hearings board established in~~
6 ~~chapter 43.21B RCW.~~

7 (3) The remedies provided by this section are not exclusive and
8 are in addition to the remedies that may be available pursuant to
9 chapter 19.86 RCW or other consumer protection laws, if applicable.

10 (4) In addition to penalties recovered under this section, the
11 enforcing (~~government entity~~) city or county may recover reasonable
12 enforcement costs and attorneys' fees from the liable (~~manufacturer~~
13 ~~or supplier~~) producer.

14 **Sec. 809.** RCW 70A.455.100 and 2020 c 20 s 1449 are each amended
15 to read as follows:

16 (~~Manufacturers and suppliers~~) (1) Producers who violate the
17 requirements of this chapter are subject to civil penalties described
18 in RCW 70A.455.090. A specific violation is deemed to have occurred
19 upon the sale of noncompliant product by stock-keeping unit number or
20 unique item number. The repeated sale of the same noncompliant
21 product by stock-keeping unit number or unique item number is
22 considered a single violation. (~~A city, county, or the state~~)

23 (2) (a) A city or county enforcing a requirement of this chapter
24 must send a written notice and a copy of the requirements to a
25 noncompliant (~~manufacturer or supplier~~) producer of an alleged
26 violation, who will have (~~ninety~~) 90 days to become compliant. (~~A~~
27 city, county, or the state may assess a first penalty if the
28 manufacturer or supplier has not met the requirements ninety days
29 following the date the notification was sent. A city, county, or the
30 state))

31 (b) A city or county enforcing a requirement of this chapter may
32 assess a first penalty if the producer has not met the requirements
33 90 days following the date the notification was sent. A city or
34 county may impose second, third, and subsequent penalties on a
35 (~~manufacturer or supplier~~) producer that remains noncompliant with
36 the requirements of this chapter for every month of noncompliance.

37 (3) The department may only impose penalties under this chapter
38 consistent with the standards established in RCW 43.21B.300.

1 NEW SECTION. **Sec. 810.** A new section is added to chapter
2 70A.455 RCW to read as follows:

3 (1) The department may adopt rules as necessary for the purpose
4 of implementing, administering, and enforcing this chapter.

5 (2) Producers of a product subject to RCW 70A.455.040,
6 70A.455.050, or 70A.455.060 must submit, under penalty of perjury, a
7 declaration that the product meets the standards established under
8 those sections of this chapter for the product. This declaration must
9 be submitted to the department:

10 (a) By January 1, 2024, for a product that is or will be sold or
11 distributed into Washington beginning January 1, 2024;

12 (b) Prior to the sale or distribution of a product newly sold or
13 distributed into Washington after January 1, 2024; and

14 (c) Prior to the sale or distribution of a product whose method
15 of compliance with the standards established in RCW 70A.455.040,
16 70A.455.050, or 70A.455.060 is materially changed from the method of
17 compliance used at the last declaration submission under this
18 section.

19 (3) The department must begin enforcing the requirements of this
20 chapter by July 1, 2024.

21 **Sec. 811.** RCW 70A.455.030 and 2019 c 265 s 3 are each amended to
22 read as follows:

23 (1) Except as provided in this chapter, no (~~manufacturer or~~
24 ~~supplier~~) producer may sell, offer for sale, or distribute for use
25 in this state a plastic product that is labeled with the term
26 "biodegradable," "degradable," "decomposable," "oxo-degradable," or
27 any similar form of those terms, or in any way imply that the plastic
28 product will break down, fragment, biodegrade, or decompose in a
29 landfill or other environment.

30 (2) This section does not apply to biodegradable mulch film that
31 meets the required testing and has the appropriate third-party
32 certifications.

33 **Sec. 812.** RCW 43.21B.110 and 2021 c 316 s 41 and 2021 c 313 s 16
34 are each reenacted and amended to read as follows:

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

1 local health departments, the department of natural resources, the
2 department of fish and wildlife, the parks and recreation commission,
3 and authorized public entities described in chapter 79.100 RCW:

4 (a) Civil penalties imposed pursuant to RCW 18.104.155,
5 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070,
6 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080,
7 70A.65.200, 70A.455.090, 76.09.170, 77.55.440, 78.44.250, 88.46.090,
8 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

9 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
10 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070,
11 70A.245.020, 70A.65.200, 86.16.020, 88.46.070, 90.14.130, 90.46.250,
12 90.48.120, and 90.56.330.

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

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

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

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

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

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

39 (i) Decisions of the department of natural resources, the
40 department of fish and wildlife, and the department that are

1 reviewable under chapter 76.09 RCW, and the department of natural
2 resources' appeals of county, city, or town objections under RCW
3 76.09.050(7).

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

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

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

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

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

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

23 (2) The following hearings shall not be conducted by the hearings
24 board:

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

27 (b) Hearings conducted by the department pursuant to RCW
28 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,
29 70A.15.3110, and 90.44.180.

30 (c) Appeals of decisions by the department under RCW 90.03.110
31 and 90.44.220.

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

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

37 **Sec. 813.** RCW 43.21B.300 and 2021 c 316 s 42 and 2021 c 313 s 17
38 are each reenacted and amended to read as follows:

1 (1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160,
2 70A.205.280, 70A.300.090, 70A.20.050, 70A.245.040, 70A.245.050,
3 70A.245.070, 70A.245.080, 70A.65.200, 70A.455.090, 88.46.090,
4 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102
5 and chapter 70A.355 RCW shall be imposed by a notice in writing,
6 either by certified mail with return receipt requested or by personal
7 service, to the person incurring the penalty from the department or
8 the local air authority, describing the violation with reasonable
9 particularity. For penalties issued by local air authorities, within
10 (~~thirty~~) 30 days after the notice is received, the person incurring
11 the penalty may apply in writing to the authority for the remission
12 or mitigation of the penalty. Upon receipt of the application, the
13 authority may remit or mitigate the penalty upon whatever terms the
14 authority in its discretion deems proper. The authority may ascertain
15 the facts regarding all such applications in such reasonable manner
16 and under such rules as it may deem proper and shall remit or
17 mitigate the penalty only upon a demonstration of extraordinary
18 circumstances such as the presence of information or factors not
19 considered in setting the original penalty.

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

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

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

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

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

35 (4) If the amount of any penalty is not paid to the department
36 within (~~thirty~~) 30 days after it becomes due and payable, the
37 attorney general, upon request of the department, shall bring an
38 action in the name of the state of Washington in the superior court
39 of Thurston county, or of any county in which the violator does
40 business, to recover the penalty. If the amount of the penalty is not

1 paid to the authority within (~~thirty~~) 30 days after it becomes due
2 and payable, the authority may bring an action to recover the penalty
3 in the superior court of the county of the authority's main office or
4 of any county in which the violator does business. In these actions,
5 the procedures and rules of evidence shall be the same as in an
6 ordinary civil action.

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

21 **PART 9**

22 **Miscellaneous**

23 NEW SECTION. **Sec. 901.** Sections 401, 402, and 405 of this act
24 constitute a new chapter in Title 70A RCW.

25 NEW SECTION. **Sec. 902.** Nothing in this act changes or limits
26 the authority of the Washington utilities and transportation
27 commission to regulate the collection of solid waste, including
28 curbside collection of residential recyclable materials, nor does
29 this section change or limit the authority of a city or town to
30 provide the service itself or by contract under RCW 81.77.020.

31 NEW SECTION. **Sec. 903.** The following acts or parts of acts are
32 each repealed:

33 (1) RCW 70A.455.110 (Compostable products revolving account) and
34 2020 c 20 s 1450 & 2019 c 265 s 11; and

35 (2) RCW 70A.455.900 (Effective date—2019 c 265) and 2019 c 265 s
36 13.

1 NEW SECTION. **Sec. 904.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

5 NEW SECTION. **Sec. 905.** If specific funding for the purposes of
6 this act, referencing this act by bill or chapter number, is not
7 provided by June 30, 2022, in the omnibus appropriations act, this
8 act is null and void."

E2SHB 1799 - S COMM AMD

By Committee on Environment, Energy & Technology

ADOPTED AS AMENDED 03/03/2022

9 On page 1, line 1 of the title, after "management;" strike the
10 remainder of the title and insert "amending RCW 70A.205.040,
11 70A.205.015, 69.80.031, 69.80.040, 89.08.615, 43.155.020, 36.70.330,
12 39.30.040, 70A.455.010, 70A.455.020, 70A.455.040, 70A.455.050,
13 70A.455.060, 70A.455.070, 70A.455.080, 70A.455.090, 70A.455.100, and
14 70A.455.030; reenacting and amending RCW 43.21B.110 and 43.21B.300;
15 adding new sections to chapter 70A.205 RCW; adding a new section to
16 chapter 43.21C RCW; adding a new section to chapter 15.04 RCW; adding
17 a new section to chapter 36.70A RCW; adding a new section to chapter
18 35.63 RCW; adding a new section to chapter 35A.63 RCW; adding new
19 sections to chapter 43.19A RCW; adding a new section to chapter
20 70A.455 RCW; adding a new chapter to Title 70A RCW; creating new
21 sections; repealing RCW 70A.455.110 and 70A.455.900; and prescribing
22 penalties."

EFFECT: Provides that wastes managed by a business that enters into a voluntary agreement to sell or donate organic materials to another business for off-site use do not count for purposes of determining the waste volume threshold for business organics management requirements. Allows businesses engaged in the growth, harvest, or processing of food or fiber to fulfill their organics management requirements by entering into a voluntary agreement to sell or donate organic materials to another business for off-site use. Removes provisions allowing the use of a good Samaritan reduced price for food donation liability purposes. Clarifies references to local solid waste management comprehensive plans and land use comprehensive plans for purposes of development regulations that implement prioritized areas for siting organics management facilities. Amends reference to identifying overburdened communities for purposes of siting facilities, to consider all potential

environmental impacts. Allows compostable food service items to use a green, beige, or brown stripe or band at least .25 inches wide to meet product labeling and identification requirements. Removes reference to management of packaging and paper products through extended producer responsibility programs as part of legislative proposals to consider in the evaluation of impacts to solid waste funding resources for purposes of the solid waste management funding study.

--- END ---