

E2SHB 1799 - S COMM AMD

By Committee on Environment, Energy & Technology

ADOPTED AND ENGROSSED 3/3/2022

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;

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

25 (iii) The jurisdiction has a total population between 25,000 and
26 50,000 people and curbside organic solid waste collection services
27 are not offered in any area within the jurisdiction, as of July 1,
28 2022.

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

30 (i) In census tracts that have a population density of less than
31 75 people per square mile that are serviced by the jurisdiction and
32 located in unincorporated portions of a county, as determined by the
33 department, in counties not planning under chapter 36.70A RCW; and

34 (ii) Outside of urban growth areas designated pursuant to RCW
35 36.70A.110 in unincorporated portions of a county planning under
36 chapter 36.70A RCW.

37 (c) In addition to the exemptions in (a) and (b) of this
38 subsection, the department may issue a renewable waiver to
39 jurisdictions or portions of a jurisdiction under this subsection for
40 up to five years, based on consideration of factors including the

1 distance to organic materials management facilities, the sufficiency
2 of the capacity to manage organic materials at facilities to which
3 organic materials could feasibly and economically be delivered from
4 the jurisdiction, and restrictions in the transport of organic
5 materials under chapter 17.24 RCW. The department may adopt rules to
6 specify the type of information that a waiver applicant must submit
7 to the department and to specify the department's process for
8 reviewing and approving waiver applications.

9 (d) Beginning January 1, 2030, the department may adopt a rule to
10 require that the provisions of this section apply in the
11 jurisdictions identified in (b) and (c) of this subsection, but only
12 if the department determines that the goals established in section
13 101(1) of this act have not or will not be achieved.

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

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

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

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

31 (b) Collection of source separated materials;

32 (c) Handling and proper preparation of materials for reuse or
33 recycling;

34 (d) Handling and proper preparation of organic materials for
35 (~~composting or anaerobic digestion~~) organic materials management;
36 and

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

38 (2) When updating a solid waste management plan developed under
39 this chapter, after June 10, 2010, each local comprehensive plan

1 must, at a minimum, consider methods that will be used to address the
2 following:

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

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

7 (c) Recoverable paper products for recycling;

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

9 (e) Waste reduction strategies.

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

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

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

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

30 (c) (i) Notwithstanding (a) and (b) of this subsection, and except
31 as provided in (c) (ii) of this subsection, a jurisdiction
32 implementing a local comprehensive solid waste management plan under
33 this chapter may not site the increase or expansion of any existing
34 organic materials management facility that processed more than
35 200,000 tons of material, relative to 2019 levels.

36 (ii) The limitation in (c) (i) of this subsection does not apply
37 to the siting of any anaerobic digester or anaerobic digestion
38 facility.

39 (4) Each city shall:

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

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

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

9 ~~((4))~~ (5) Two or more cities may prepare a plan for inclusion
10 in the county plan. With prior notification of its home county of its
11 intent, a city in one county may enter into an agreement with a city
12 in an adjoining county, or with an adjoining county, or both, to
13 prepare a joint plan for solid waste management to become part of the
14 comprehensive plan of both counties.

15 ~~((5))~~ (6) After consultation with representatives of the cities
16 and counties, the department shall establish a schedule for the
17 development of the comprehensive plans for solid waste management. In
18 preparing such a schedule, the department shall take into account the
19 probable cost of such plans to the cities and counties.

20 ~~((6))~~ (7) Local governments shall not be required to include a
21 hazardous waste element in their solid waste management plans.

22 NEW SECTION. **Sec. 104.** (1) The department of ecology must
23 contract with a third-party consultant to conduct a study of the
24 adequacy of local government solid waste management funding,
25 including options and recommendations to provide funding for solid
26 waste programs in the future if significant statewide policy changes
27 are enacted. The department must include the Washington association
28 of county solid waste managers, the association of Washington cities,
29 an association that represents the private sector solid waste
30 industry, and other stakeholders in scoping the study and reviewing
31 the consultant's findings and recommendations prior to submittal to
32 the legislature.

33 (2) The study must include:

34 (a) Consideration for jurisdictional type, location, size,
35 service level, and other relevant differences between cities and
36 counties;

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

1 (c) The funding needs to implement the solid waste core services
2 model developed by the Washington association of county solid waste
3 managers;

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

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

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

12 (ii) Manage products through product stewardship or extended
13 producer responsibility programs;

14 (iii) Improve or install new or updated methane capture systems;

15 (iv) Increase postconsumer content requirements for materials
16 collected in solid waste programs; and

17 (v) Other related proposals that may impact solid waste funding
18 resources.

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

22 (a) The level of service provided by local government;

23 (b) Costs to the local government;

24 (c) Existing revenue levels; and

25 (d) The need for additional revenue.

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

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

31 (~~(As used in this chapter, unless the context indicates~~
32 ~~otherwise:)) The definitions in this section apply throughout this
33 chapter unless the context clearly requires otherwise.~~

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

35 (2) "Commission" means the utilities and transportation
36 commission.

37 (3) "Composted material" means organic solid waste that has been
38 subjected to controlled aerobic degradation at a solid waste facility
39 in compliance with the requirements of this chapter. Natural decay of

1 organic solid waste under uncontrolled conditions does not result in
2 composted material.

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

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

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

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

10 (8) "Functional standards" means criteria for solid waste
11 handling expressed in terms of expected performance or solid waste
12 handling functions.

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

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

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

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

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

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

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

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

36 (17) "Recyclable materials" means those solid wastes that are
37 separated for recycling or reuse, such as papers, metals, and glass,
38 that are identified as recyclable material pursuant to a local
39 comprehensive solid waste plan. Prior to the adoption of the local
40 comprehensive solid waste plan, adopted pursuant to RCW

1 70A.205.075(2), local governments may identify recyclable materials
2 by ordinance from July 23, 1989.

3 (18) "Recycling" means transforming or remanufacturing waste
4 materials into usable or marketable materials for use other than
5 landfill disposal or incineration.

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

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

12 (21) "Soil amendment" means any substance that is intended to
13 improve the physical characteristics of the soil, except composted
14 material, commercial fertilizers, agricultural liming agents,
15 unmanipulated animal manures, unmanipulated vegetable manures, food
16 wastes, food processing wastes, and materials exempted by rule of the
17 department, such as biosolids as defined in chapter 70A.226 RCW and
18 wastewater as regulated in chapter 90.48 RCW.

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

24 (23) "Solid waste handling" means the management, storage,
25 collection, transportation, treatment, utilization, processing, and
26 final disposal of solid wastes, including the recovery and recycling
27 of materials from solid wastes, the recovery of energy resources from
28 solid wastes or the conversion of the energy in solid wastes to more
29 useful forms or combinations thereof.

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

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

38 (26) "Waste-derived soil amendment" means any soil amendment as
39 defined in this chapter that is derived from solid waste as defined
40 in this section, but does not include biosolids or biosolids products

1 regulated under chapter 70A.226 RCW or wastewaters regulated under
2 chapter 90.48 RCW.

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

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

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

14 (ii) Organic materials include, but are not limited to, manure,
15 yard debris, food waste, food processing waste, wood waste, and
16 garden waste.

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

22 (30) "Organic materials management" means management of organic
23 materials through composting, anaerobic digestion, vermiculture,
24 black soldier fly, or similar technologies.

25 **PART 2**

26 **Requirements for Organics Management by Businesses**

27 NEW SECTION. Sec. 201. A new section is added to chapter
28 70A.205 RCW to read as follows:

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

32 (i) Provide for businesses to be serviced by providers that
33 collect food waste and organic material waste for delivery to solid
34 waste facilities that provide for the organic materials management of
35 organic material waste and food waste; and

36 (ii) Are serviced by solid waste facilities that provide for the
37 organic materials management of organic material waste and food waste

1 and have capacity to accept increased volumes of organic materials
2 deliveries.

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

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

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

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

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

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

24 (d) The requirements of this section may be enforced by
25 jurisdictional health departments consistent with this chapter,
26 except that:

27 (i) A jurisdictional health department may not charge a fee to
28 permit holders to cover the costs of the jurisdictional health
29 department's administration or enforcement of the requirements of
30 this section; and

31 (ii) Prior to issuing a penalty under this section, a
32 jurisdictional health department must provide at least two written
33 notices of noncompliance with the requirements of this section to the
34 owner or operator of a business subject to the requirements of this
35 section.

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

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

5 (iii) Beginning January 1, 2026, a business that generates at
6 least four cubic yards of solid waste per week shall arrange for
7 organic materials management services specifically for organic
8 material waste, unless the department determines, by rule, that
9 additional reductions in the landfilling of organic materials would
10 be more appropriately and effectively achieved, at reasonable cost to
11 regulated businesses, through the establishment of a different
12 volumetric threshold of solid waste or organic material waste than
13 the threshold of four cubic yards of solid waste per week.

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

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

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

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

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

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

26 (a) Source separating organic material waste from other waste,
27 subscribing to a service that includes organic material waste
28 collection and organic materials management, and using such a service
29 for organic material waste generated by the business;

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

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

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

37 (4)(a) A business generating organic material waste shall arrange
38 for any services required by this section in a manner that is
39 consistent with state and local laws and requirements applicable to

1 the collection, handling, or recycling of solid and organic material
2 waste.

3 (b) Nothing in this section requires a business to dispose of
4 materials in a manner that conflicts with federal or state public
5 health or safety requirements. Nothing in this section requires
6 businesses to dispose of wastes generated in exceptional volumes as a
7 result of a natural disaster or other infrequent and unpreventable
8 event through the options established in subsection (3) of this
9 section.

10 (5) When arranging for gardening or landscaping services, the
11 contract or work agreement between a business subject to this section
12 and a gardening or landscaping service must require that the organic
13 material waste generated by those services be managed in compliance
14 with this chapter.

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

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

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

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

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

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

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

34 (d) Nothing in this section changes or limits the authority of
35 the Washington utilities and transportation commission to regulate
36 collection of solid waste, including curbside collection of
37 residential recyclable materials, nor does this section change or
38 limit the authority of a city or town to provide the service itself
39 or by contract under RCW 81.77.020.

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

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

7 (ii) "Business" does not include a multifamily residential
8 entity.

9 (b) "Food waste" has the same meaning as defined in RCW
10 70A.205.715.

11 PART 3

12 Updates to the Washington Good Samaritan Act

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

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

17 (2) (~~(As used in this section:)~~) The definitions in this
18 subsection apply throughout this section unless the context clearly
19 requires otherwise.

20 (a) "Apparently fit grocery product" means a grocery product that
21 meets (~~(all quality and)~~) safety and safety-related labeling
22 standards imposed by federal, state, and local laws and regulations
23 even though the product may not be readily marketable due to
24 appearance, age, freshness, grade, size, surplus, passage of a date
25 on a date label other than a safety or safety-related labeling of a
26 date, or other conditions.

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

33 (c) "Donate" means to give without requiring anything of monetary
34 value from the recipient, except that the term shall include giving
35 by a nonprofit organization to another nonprofit organization,
36 notwithstanding that the donor organization has charged a nominal fee
37 to the donee organization, if the ultimate recipient or user is not
38 required to give anything of monetary value.

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

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

8 (f) "Grocery product" means a nonfood grocery product, including
9 a disposable paper or plastic product, household cleaning product,
10 laundry detergent, cleaning product, or miscellaneous household item.

11 (g) "Gross negligence" means voluntary and conscious conduct by a
12 person with knowledge, at the time of the conduct, that the conduct
13 is likely to be harmful to the health or well-being of another
14 person.

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

18 (i) "Nonprofit organization" means an incorporated or
19 unincorporated entity that:

20 (i) Is operating for religious, charitable, or educational
21 purposes; and

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

25 (j) "Person" means an individual, corporation, partnership,
26 organization, association, or governmental entity, including a retail
27 grocer, wholesaler, hotel, motel, manufacturer, restaurant, caterer,
28 farmer, and nonprofit food distributor or hospital. In the case of a
29 corporation, partnership, organization, association, or governmental
30 entity, the term includes an officer, director, partner, deacon,
31 trustee, councilmember, or other elected or appointed individual
32 responsible for the governance of the entity.

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

38 (l)(i) "Safety and safety-related labeling" means a marking
39 intended to communicate information to a consumer related to a food
40 product's safety. "Safety and safety-related labeling" includes any

1 marking that federal or state law requires to be affixed to a food
2 product including, but not limited to, markings placed on infant
3 formula consistent with 21 C.F.R. Sec. 107.20, as that regulation
4 existed as of January 1, 2021.

5 (ii) "Safety and safety-related labeling" does not include a pull
6 date required to be placed on perishable packaged food under RCW
7 15.130.300 or a "best by," "best if used by," "use by," or "sell by"
8 date or similarly phrased date intended to communicate information to
9 a consumer regarding the freshness or quality of a food product.

10 (3) (a) A person or gleaner is not subject to civil or criminal
11 liability arising from the nature, age, packaging, or condition of
12 apparently wholesome food or an apparently fit grocery product that
13 the person or gleaner donates in good faith to a nonprofit
14 organization for ultimate distribution to needy individuals, except
15 that this subsection does not apply to an injury to or death of an
16 ultimate user or recipient of the food or grocery product that
17 results from an act or omission of the donor constituting gross
18 negligence or intentional misconduct.

19 (b) A qualified direct donor may donate food directly to end
20 recipients for consumption. A qualified direct donor is not subject
21 to civil or criminal liability arising from the nature, age,
22 packaging, or condition of apparently wholesome food or an apparently
23 fit grocery product that the qualified direct donor donates in good
24 faith to a needy individual. The donation of nonperishable food that
25 is fit for human consumption, but that has exceeded the labeled
26 shelf-life date recommended by the manufacturer, is an activity
27 covered by the exclusion from civil or criminal liability under this
28 section.

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

35 (4) A person who allows the collection or gleaning of donations
36 on property owned or occupied by the person by gleaners, or paid or
37 unpaid representatives of a nonprofit organization, for ultimate
38 distribution to needy individuals is not subject to civil or criminal
39 liability that arises due to the injury or death of the gleaner or
40 representative, except that this subsection does not apply to an

1 injury or death that results from an act or omission of the person
2 constituting gross negligence or intentional misconduct.

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

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

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

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

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

18 **PART 4**

19 **Washington Center for Sustainable Food Management**

20 NEW SECTION. **Sec. 401.** The definitions in this section apply
21 throughout this chapter unless the context clearly requires
22 otherwise.

23 (1) "Center" means the Washington center for sustainable food
24 management.

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

26 (3) "Organic material" has the same definition as provided in RCW
27 70A.205.015.

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

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

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

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

36 (a) Coordinate the implementation of the plan;

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

4 (c) Maintain a website with current food waste reduction
5 information and guidance for food service establishments, consumers,
6 food processors, hunger relief organizations, and other sources of
7 food waste;

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

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

13 (f) Facilitate and coordinate public-private and nonprofit
14 partnerships focused on food waste reduction, including through
15 voluntary working groups;

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

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

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

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

28 (j) Research and develop emerging organic materials and food
29 waste reduction markets;

30 (k)(i) Develop and maintain statewide food waste reduction and
31 food waste contamination reduction campaigns, in consultation with
32 other state agencies and other stakeholders, including the
33 development of waste prevention and food waste recovery promotional
34 materials for distribution. These promotional materials may include
35 online information, newsletters, bulletins, or handouts that inform
36 food service establishment operators about the protections from civil
37 and criminal liability under federal law and under RCW 69.80.031 when
38 donating food; and

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

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

4 (B) State agencies, including the department of health and the
5 department of agriculture, in conjunction with their statutory roles
6 and responsibilities in regulating, monitoring, and supporting safe
7 food supply chains and systems;

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

10 (m) Research and provide education, outreach, and technical
11 assistance to local governments in support of the adoption of solid
12 waste ordinances or policies that establish a financial disincentive
13 for the generation of organic waste and for the ultimate disposal of
14 organic materials in landfills.

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

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

22 NEW SECTION. **Sec. 403.** A new section is added to chapter
23 70A.205 RCW to read as follows:

24 (1) In order to obtain data as necessary to support the goals of
25 the Washington center for sustainable food management created in
26 section 402 of this act and to achieve the goals of RCW
27 70A.205.715(1), the department may establish a voluntary reporting
28 protocol for the receipt of reports by businesses that donate food
29 under RCW 69.80.031 and recipients of the donated food, and may
30 encourage the use of this voluntary reporting protocol by the
31 businesses and recipients. The department may also request that a
32 donating business or recipient of donated food provide information to
33 the department regarding the volumes, types, and timing of food
34 managed by the donating facility or business, and food waste and
35 wasted food generated by the donating facility or business. To the
36 extent practicable, the department must seek to obtain information
37 under this section in a manner compatible with any information
38 reported to the department of agriculture under RCW 43.23.290, and in

1 a manner that minimizes the reporting and information-provision
2 burdens of donating businesses and recipients.

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

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

7 The department of agriculture shall maintain an information and
8 referral service for persons and organizations that have notified the
9 department of their desire to participate in the food donation
10 program under this chapter. The department must coordinate with the
11 department of ecology to ensure that the information and referral
12 service required under this section is implemented in a manner
13 consistent with the activities of sections 402 and 403 of this act.

14 NEW SECTION. **Sec. 405.** (1) By January 1, 2025, and in
15 consultation with the office of the attorney general, the department
16 must research and adopt several model ordinances for optional use by
17 counties and cities that provide for model mechanisms for commercial
18 solid waste collection and disposal that are designed, in part, to
19 establish a financial disincentive or other disincentives for the
20 generation of organic waste and for the ultimate disposal of organic
21 materials in landfills. The model ordinances must be designed to
22 provide options that might be preferred by jurisdictions of different
23 sizes and consider other key criteria applicable to local solid waste
24 management circumstances.

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

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

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

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

35 Amendments to regulations and other nonproject actions taken by a
36 city or county to adopt or implement the model ordinance created by

1 the department under section 405 of this act is not subject to the
2 requirements of this chapter.

3 **PART 5**

4 **Funding and Incentives for Methane Emissions Reduction Activities**
5 **Associated with Organic Materials Management**

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

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

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

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

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

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

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

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

28 (6) Allowable uses of grant funds include:

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

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

32 (c) Down payments on equipment;

33 (d) Purchases of equipment;

34 (e) Purchase of seed, seedlings, spores, animal feed, and
35 amendments;

36 (f) Services to landowners, such as the development of site-
37 specific conservation plans to increase soil organic levels or to
38 increase usage of precision agricultural practices, or design and

1 implementation of best management practices to reduce livestock
2 emissions; (~~and~~)

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

8 (h) Scientific studies to evaluate and quantify the greenhouse
9 gas emissions avoided as a result of using crop residues as a biofuel
10 feedstock or to identify management practices that increase the
11 greenhouse gas emissions avoided as a result of using crop residues
12 as a biofuel feedstock;

13 (i) Efforts to support the farm use of anaerobic digester
14 digestate, including scientific studies, education and outreach to
15 farmers, and the purchase or lease of digestate spreading equipment;
16 and

17 (j) Other equipment purchases or financial assistance deemed
18 appropriate by the commission to fulfill the intent of RCW 89.08.610
19 through 89.08.635.

20 (7) Grant applications are eligible for costs associated with
21 technical assistance.

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

24 (9) Grant applicants may apply to share equipment purchased with
25 grant funds. Applicants for equipment purchase grants issued under
26 this grant program may be farm, ranch, or aquaculture operations
27 coordinating as individual businesses or as formal cooperative
28 ventures serving farm, ranch, or aquaculture operations. Conservation
29 districts, separately or jointly, may also apply for grant funds to
30 operate an equipment sharing program.

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

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

1 (12) Any applications involving state lands leased from the
2 department of natural resources must include the department's
3 approval.

4 NEW SECTION. **Sec. 502.** A new section is added to chapter 15.04
5 RCW to read as follows:

6 (1)(a) Subject to the availability of amounts appropriated for
7 this specific purpose, the department must establish and implement a
8 compost reimbursement program to reimburse farming operations in the
9 state for purchasing and using compost products that were not
10 generated by the farming operation, including transportation,
11 spreading equipment, labor, fuel, and maintenance costs associated
12 with spreading equipment. The grant reimbursements under the program
13 begin July 1, 2023.

14 (b) For the purposes of this program, "farming operation" means:
15 A commercial agricultural, silvicultural, or aquacultural facility or
16 pursuit, including the care and production of livestock and livestock
17 products, poultry and poultry products, apiary products, and plant
18 and animal production for nonfood uses; the planting, cultivating,
19 harvesting, and processing of crops; and the farming or ranching of
20 any plant or animal species in a controlled salt, brackish, or
21 freshwater environment.

22 (2) To be eligible to participate in the reimbursement program, a
23 farming operation must complete an eligibility review with the
24 department prior to transporting or applying any compost products for
25 which reimbursement is sought under this section. The purpose of the
26 review is for the department to ensure that the proposed transport
27 and application of compost products is consistent with the
28 department's agricultural pest control rules established under
29 chapter 17.24 RCW. A farming operation must also verify that it will
30 allow soil sampling to be conducted by the department upon request
31 before compost application and until at least 10 years after the last
32 grant funding is used by the farming operation, as necessary to
33 establish a baseline of soil quality and carbon storage and for
34 subsequent department evaluations to assist the department's
35 reporting requirements under subsection (8) of this section.

36 (3) The department must create a form for eligible farming
37 operations to apply for cost reimbursement for costs from purchasing
38 and using compost from facilities with solid waste handling permits,
39 including transportation, equipment, spreading, and labor costs. All

1 applications for cost reimbursement must be submitted on the form
2 along with invoices, receipts, or other documentation acceptable to
3 the department of the costs of purchasing and using compost products
4 for which the applicant is requesting reimbursement, as well as a
5 brief description of what each purchased item will be used for. The
6 department may request that an applicant provide information to
7 verify the source, size, sale weight, or amount of compost products
8 purchased and the cost of transportation, equipment, spreading, and
9 labor. The applicant must also declare that it is not seeking
10 reimbursement for purchase or labor costs for:

11 (a) Its own compost products; or

12 (b) Compost products that it has transferred, or intends to
13 transfer, to another individual or entity, whether or not for
14 compensation.

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

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

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

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

31 (c) A farming operation is not eligible to receive more than
32 \$10,000 per fiscal year;

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

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

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

5 (7) There is established within the department a compost
6 reimbursement program manager position. The compost reimbursement
7 program manager must possess knowledge and expertise in the area of
8 program management necessary to carry out the duties of the position,
9 which are to:

10 (a) Facilitate the division and distribution of available costs
11 for reimbursement; and

12 (b) Manage the day-to-day coordination of the compost
13 reimbursement program.

14 (8) In compliance with RCW 43.01.036, the department must submit
15 an annual report to the appropriate committees of the legislature by
16 January 15th of each year of the program in which grants have been
17 issued or completed. The report must include:

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

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

22 (c) A periodically updated evaluation of the benefits and costs
23 to the state of expanding or furthering the strategies promoted in
24 the program.

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

27 The definitions in this section apply throughout this chapter
28 unless the context clearly requires otherwise.

29 (1) "Board" means the public works board created in RCW
30 43.155.030.

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

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

36 (4) "Financing guarantees" means the pledge of money in the
37 public works assistance account, or money to be received by the
38 public works assistance account, to the repayment of all or a portion

1 of the principal of or interest on obligations issued by local
2 governments to finance public works projects.

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

7 (6) "Public works project" means a project of a local government
8 for the planning, acquisition, construction, repair, reconstruction,
9 replacement, rehabilitation, or improvement of streets and roads,
10 bridges, water systems, or storm and sanitary sewage systems, lead
11 remediation of drinking water systems, and solid waste facilities,
12 including recycling facilities and composting and other organic
13 materials management facilities. A planning project may include the
14 compilation of biological, hydrological, or other data on a county,
15 drainage basin, or region necessary to develop a base of information
16 for a capital facility plan.

17 (7) "Solid waste or recycling project" means remedial actions
18 necessary to bring abandoned or closed landfills into compliance with
19 regulatory requirements and the repair, restoration, and replacement
20 of existing solid waste transfer, recycling facilities, and landfill
21 projects limited to the opening of landfill cells that are in
22 existing and permitted landfills.

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

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

32 PART 6

33 Organic Materials Management Facility Siting

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

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

1 (1) A land use element which designates the proposed general
2 distribution and general location and extent of the uses of land for
3 agriculture, housing, commerce, industry, recreation, education,
4 public buildings and lands, and other categories of public and
5 private use of land, including a statement of the standards of
6 population density and building intensity recommended for the various
7 areas in the jurisdiction and estimates of future population growth
8 in the area covered by the comprehensive plan, all correlated with
9 the land use element of the comprehensive plan. The land use element
10 shall also provide for protection of the quality and quantity of
11 groundwater used for public water supplies and shall review drainage,
12 flooding, and stormwater runoff in the area and nearby jurisdictions
13 and provide guidance for corrective actions to mitigate or cleanse
14 those discharges that pollute Puget Sound or waters entering Puget
15 Sound. 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 (2) A circulation element consisting of the general location,
23 alignment and extent of major thoroughfares, major transportation
24 routes, trunk utility lines, and major terminal facilities, all of
25 which shall be correlated with the land use element of the
26 comprehensive plan;

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

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

31 Development regulations to implement comprehensive plans under
32 this chapter that are newly developed, updated, or amended after
33 January 1, 2025, must allow for the siting of organic materials
34 management facilities in the areas identified in RCW
35 70A.205.040(3)(a)(i) to the extent necessary to provide for the
36 establishment of the organic materials management volumetric capacity
37 identified under RCW 70A.205.040(3)(a)(ii).

1 NEW SECTION. **Sec. 603.** A new section is added to chapter 35.63
2 RCW to read as follows:

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

11 NEW SECTION. **Sec. 604.** A new section is added to chapter 35A.63
12 RCW to read as follows:

13 For cities not planning under RCW 36.70A.040, development
14 regulations to implement comprehensive plans required under RCW
15 35A.63.060 that are newly developed, updated, or amended after
16 January 1, 2025, must allow for the siting of organic materials
17 management facilities in the areas identified by the county in which
18 the city is located under RCW 70A.205.040(3)(a)(i) to the extent
19 necessary to provide for the establishment of the organic materials
20 management volumetric capacity identified under RCW
21 70A.205.040(3)(a)(ii).

22 **PART 7**
23 **Organic Materials Procurement**

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

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

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

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

33 (2) A city or county that newly exceeds a population of 25,000
34 residents after January 1, 2023, as measured by the office of
35 financial management, must adopt an ordinance under this subsection
36 no later than 12 months after the office of financial management's

1 determination that the local government's population has exceeded
2 25,000.

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

5 (a) Landscaping projects;

6 (b) Construction and postconstruction soil amendments;

7 (c) Applications to prevent erosion, filter stormwater runoff,
8 promote vegetation growth, or improve the stability and longevity of
9 roadways; and

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

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

17 (5) By December 31, 2024, and each December 31st of even-numbered
18 years thereafter, each city or county that adopts an ordinance under
19 subsection (1) or (2) of this section must submit a report covering
20 the previous year's compost procurement activities to the department
21 of ecology that contains the following information:

22 (a) The total tons of organic material diverted throughout the
23 year;

24 (b) The volume and cost of compost purchased throughout the year;
25 and

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

27 (6) Cities and counties that are required to adopt an ordinance
28 under subsection (1) or (2) of this section shall give priority to
29 purchasing compost products from companies that produce compost
30 products locally, are certified by a nationally recognized
31 organization, and produce compost products that are derived from
32 municipal solid waste compost programs and meet quality standards
33 comparable to standards adopted by the department of transportation
34 or adopted by rule by the department of ecology.

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

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

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

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

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

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

3 (1) Whenever a unit of local government is required to make
4 purchases from the lowest bidder or from the supplier offering the
5 lowest price for the items desired to be purchased, the unit of local
6 government may, at its option when awarding a purchase contract, take
7 into consideration tax revenue it would receive from purchasing the
8 supplies, materials, or equipment from a supplier located within its
9 boundaries. The unit of local government must award the purchase
10 contract to the lowest bidder after such tax revenue has been
11 considered. However, any local government may allow for preferential
12 purchase of products made from recycled materials or products that
13 may be recycled or reused. Any local government may allow for
14 preferential purchase of compost to meet the requirements of RCW
15 43.19A.120. Any unit of local government which considers tax revenue
16 it would receive from the imposition of taxes upon a supplier located
17 within its boundaries must also consider tax revenue it would receive
18 from taxes it imposes upon a supplier located outside its boundaries.

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

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

27 (a) "Tax revenue" means sales taxes that units of local
28 government impose upon the sale of supplies, materials, or equipment
29 from the supplier to units of local government, and business and
30 occupation taxes that units of local government impose upon the
31 supplier that are measured by the gross receipts of the supplier from
32 the sale.

33 (b) "Unit of local government" means any county, city, town,
34 metropolitan municipal corporation, public transit benefit area,
35 county transportation authority, or other municipal or quasi-
36 municipal corporation authorized to impose sales and use taxes or
37 business and occupation taxes.

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

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

4 **PART 8**

5 **Product Degradability Labeling**

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

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

10 (a) Environmental marketing claims for plastic products, whether
11 implicit or implied, should adhere to uniform and recognized
12 standards for "compostability" and "biodegradability," since
13 misleading, confusing, and deceptive labeling can negatively impact
14 local composting programs and compost processors. Plastic products
15 marketed as being "compostable" should be readily and easily
16 identifiable as meeting these standards;

17 (b) Legitimate and responsible packaging and plastic product
18 manufacturers are already properly labeling their compostable
19 products, but many manufacturers are not. Not all compost facilities
20 and their associated processing technologies accept or are required
21 to accept compostable packaging as feedstocks. However, implementing
22 a standardized system and test methods may create the ability for
23 them to take these products in the future.

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

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

31 The definitions in this section apply throughout this chapter
32 unless the context clearly requires otherwise.

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

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

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

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

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

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

14 (3) "Federal trade commission guides" means the United States
15 federal trade commission's guides for the use of environmental
16 marketing claims (Part 260, commencing at section 260.1),
17 compostability claims, including section 260.8, and degradation
18 claims (subchapter B of chapter I of Title 16 of the Code of Federal
19 Regulations), as those guides existed as of January 1, 2019.

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

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

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

32 (~~7~~)) "Person" means individual, firm, association,
33 copartnership, political subdivision, government agency,
34 municipality, industry, public or private corporation, or any other
35 entity whatsoever.

36 (~~(8)~~) (7) "Plastic food packaging and food service products"
37 means food packaging and food service products that is composed of:

38 (a) Plastic; or

39 (b) Fiber or paper with a plastic coating, window, component, or
40 additive.

1 ~~((9))~~ (8) "Plastic product" means a product made of plastic,
2 whether alone or in combination with another material including, but
3 not limited to, paperboard. A plastic product includes, but is not
4 limited to, any of the following:

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

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

9 (c) A film product; or

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

11 ~~((10))~~ (9) "Standard specification" means either:

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

15 (b) ASTM D6868 - standard specification for labeling of end items
16 that incorporate plastics and polymers as coatings or additives with
17 paper and other substrates designed to be aerobically composted in
18 municipal or industrial facilities, as it existed as of January 1,
19 2019.

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

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

26 ~~(12))~~ (10) "Utensil" means a product designed to be used by a
27 consumer to facilitate the consumption of food or beverages,
28 including knives, forks, spoons, cocktail picks, chopsticks, splash
29 sticks, and stirrers.

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

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

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

37 (b) If the product is manufactured by a person other than the
38 brand owner, the producer is the person that is the licensee of a
39 brand or trademark under which a product is used in a commercial
40 enterprise, sold, offered for sale, or distributed in or into this

1 state, whether or not the trademark is registered in this state,
2 unless the manufacturer or brand owner of the product has agreed to
3 accept responsibility under this chapter; or

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

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

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

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

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

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

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

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

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

22 ~~((A))~~ (i) Meets industry standards for being distinguishable
23 upon quick inspection in both public sorting areas and in processing
24 facilities;

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

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

31 (iv) Uses green, beige, or brown labeling, color striping, or
32 other green, beige, or brown symbols, colors, tinting, marks, or
33 design patterns that help differentiate compostable items from
34 noncompostable items.

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

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

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

1 ~~(c) Uses distinctive color schemes, green or brown color~~
2 ~~striping, or other adopted symbols, colors, marks, or design patterns~~
3 ~~that help differentiate compostable items from noncompostable~~
4 ~~materials.))~~

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

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

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

14 (a) Be labeled with a certification logo indicating the bag meets
15 the ASTM D6400 standard specification if the bag has been certified
16 as meeting that standard by a recognized third-party independent
17 verification body;

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

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

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

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

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

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

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

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

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

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

6 (1) (a) A (~~manufacturer or supplier~~) producer of plastic food
7 service products or film products that meet ASTM standard
8 specification D6400 or ASTM standard specification D6868 must ensure
9 that the items are readily and easily identifiable from other plastic
10 food service products or plastic film products in a manner that is
11 consistent with the federal trade commission guides.

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

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

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

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

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

25 (d) If the product is a plastic food service product or food
26 contact film product, be at least partially colored or partially
27 tinted green, beige, or brown, or have a green, beige, or brown
28 stripe or band at least .25 inches wide; and

29 (e) If the product is a nonfood contact film product, be at least
30 partially colored or partially tinted green or have a green stripe or
31 band at least .25 inches wide and display the word "compostable".

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

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

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

37 ~~(c) Uses distinctive color schemes, green or brown color~~
38 ~~striping, or other adopted symbols, colors, marks, or design patterns~~

1 that help differentiate compostable items from noncompostable
2 materials.

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

5 ~~(a) Display~~) display labeling language via printing, embossing,
6 or compostable adhesive stickers using, when possible, either the
7 colors green, beige, or brown that contrast with background product
8 color for easy identification(~~(~~

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

10 ~~((5))~~ (4) Graphic elements are encouraged to increase
11 legibility of the word "compostable" and overall product distinction
12 that may include text boxes, stripes, bands, or a green, beige, or
13 brown tint of the product.

14 ~~((6))~~ (5) A ~~((manufacturer or supplier))~~ producer is required
15 to comply with this section only to the extent that the labeling
16 requirements do not conflict with the federal trade commission
17 guides.

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

20 (1) A ((manufacturer or supplier of film products or food service
21 products)) producer of plastic film bags sold, offered for sale, or
22 distributed for use in Washington that does not meet the applicable
23 ASTM standard specifications provided in RCW 70A.455.050 ((and
24 70A.455.060)) is:

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

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

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

37 (2) A producer of food service products, or plastic film products
38 other than plastic film bags subject to subsection (1) of this
39 section, sold, offered for sale, or distributed for use in Washington

1 that does not meet the applicable ASTM standard specifications
2 provided in RCW 70A.455.060 is:

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

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

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

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

15 (1) Upon the request by a person, including the department, a
16 ~~((manufacturer or supplier))~~ producer shall submit to that person or
17 the department, within ~~((ninety))~~ 90 days of the request,
18 nonconfidential business information and documentation demonstrating
19 compliance with this chapter, in a format that is easy to understand
20 and scientifically accurate.

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

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

29 (1) (a) The ~~((state, acting through the attorney general,))~~
30 department and cities and counties have concurrent authority to
31 enforce this chapter and to issue and collect civil penalties for a
32 violation of this chapter, subject to the conditions in this section
33 and RCW 70A.455.100. An enforcing government entity may impose a
34 civil penalty in the amount of up to ~~((two thousand dollars))~~ \$2,000
35 for the first violation of this chapter, up to ~~((five thousand~~
36 ~~dollars))~~ \$5,000 for the second violation of this chapter, and up to
37 ~~((ten thousand dollars))~~ \$10,000 for the third and any subsequent
38 violation of this chapter. If a ~~((manufacturer or supplier))~~ producer

1 has paid a prior penalty for the same violation to a different
2 government entity with enforcement authority under this subsection,
3 the penalty imposed by a government entity is reduced by the amount
4 of the payment.

5 (b) The enforcement of this chapter must be based primarily on
6 complaints filed with the department and cities and counties. The
7 department must establish a forum for the filing of complaints.
8 Cities, counties, or any person may file complaints with the
9 department using the forum, and cities and counties may review
10 complaints filed with the department via the forum. The forum
11 established by the department may include a complaint form on the
12 department's website, a telephone hotline, or a public outreach
13 strategy relying upon electronic social media to receive complaints
14 that allege violations. The department, in collaboration with the
15 cities and counties, must provide education and outreach activities
16 to inform retail establishments, consumers, and producers about the
17 requirements of this chapter.

18 ~~(2) ((Any civil penalties collected pursuant to this section must~~
19 ~~be paid to the office of the city attorney, city prosecutor, district~~
20 ~~attorney, or attorney general, whichever office brought the action.~~
21 ~~Penalties collected by the attorney general on behalf of the state~~
22 ~~must be deposited in the compostable products revolving account~~
23 ~~created in RCW 70A.455.110)) Penalties issued by the department are~~
24 ~~appealable to the pollution control hearings board established in~~
25 ~~chapter 43.21B RCW.~~

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

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

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

35 ~~((Manufacturers and suppliers))~~ (1) Producers who violate the
36 requirements of this chapter are subject to civil penalties described
37 in RCW 70A.455.090. A specific violation is deemed to have occurred
38 upon the sale of noncompliant product by stock-keeping unit number or
39 unique item number. The repeated sale of the same noncompliant

1 product by stock-keeping unit number or unique item number is
2 considered a single violation. (~~A city, county, or the state~~)

3 (2) (a) A city or county enforcing a requirement of this chapter
4 must send a written notice and a copy of the requirements to a
5 noncompliant (~~manufacturer or supplier~~) producer of an alleged
6 violation, who will have (~~ninety~~) 90 days to become compliant. (~~A~~
7 ~~city, county, or the state may assess a first penalty if the~~
8 ~~manufacturer or supplier has not met the requirements ninety days~~
9 ~~following the date the notification was sent. A city, county, or the~~
10 ~~state~~)

11 (b) A city or county enforcing a requirement of this chapter may
12 assess a first penalty if the producer has not met the requirements
13 90 days following the date the notification was sent. A city or
14 county may impose second, third, and subsequent penalties on a
15 (~~manufacturer or supplier~~) producer that remains noncompliant with
16 the requirements of this chapter for every month of noncompliance.

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

19 NEW SECTION. Sec. 810. A new section is added to chapter
20 70A.455 RCW to read as follows:

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

23 (2) Producers of a product subject to RCW 70A.455.040,
24 70A.455.050, or 70A.455.060 must submit, under penalty of perjury, a
25 declaration that the product meets the standards established under
26 those sections of this chapter for the product. This declaration must
27 be submitted to the department:

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

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

32 (c) Prior to the sale or distribution of a product whose method
33 of compliance with the standards established in RCW 70A.455.040,
34 70A.455.050, or 70A.455.060 is materially changed from the method of
35 compliance used at the last declaration submission under this
36 section.

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

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

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

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

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

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

22 (a) Civil penalties imposed pursuant to RCW 18.104.155,
23 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070,
24 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080,
25 70A.65.200, 70A.455.090, 76.09.170, 77.55.440, 78.44.250, 88.46.090,
26 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

27 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
28 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070,
29 70A.245.020, 70A.65.200, 86.16.020, 88.46.070, 90.14.130, 90.46.250,
30 90.48.120, and 90.56.330.

31 (c) Except as provided in RCW 90.03.210(2), the issuance,
32 modification, or termination of any permit, certificate, or license
33 by the department or any air authority in the exercise of its
34 jurisdiction, including the issuance or termination of a waste
35 disposal permit, the denial of an application for a waste disposal
36 permit, the modification of the conditions or the terms of a waste
37 disposal permit, or a decision to approve or deny an application for
38 a solid waste permit exemption under RCW 70A.205.260.

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

3 (e) Decisions of local health departments regarding the issuance
4 and enforcement of permits to use or dispose of biosolids under RCW
5 70A.226.090.

6 (f) Decisions of the department regarding waste-derived
7 fertilizer or micronutrient fertilizer under RCW 15.54.820, and
8 decisions of the department regarding waste-derived soil amendments
9 under RCW 70A.205.145.

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

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

19 (i) Decisions of the department of natural resources, the
20 department of fish and wildlife, and the department that are
21 reviewable under chapter 76.09 RCW, and the department of natural
22 resources' appeals of county, city, or town objections under RCW
23 76.09.050(7).

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

26 (k) Decisions of the department of fish and wildlife to issue,
27 deny, condition, or modify a hydraulic project approval permit under
28 chapter 77.55 RCW, to issue a stop work order, to issue a notice to
29 comply, to issue a civil penalty, or to issue a notice of intent to
30 disapprove applications.

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

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

37 (n) Decisions of the department of ecology that are appealable
38 under RCW 70A.245.020 to set recycled minimum postconsumer content
39 for covered products or to temporarily exclude types of covered

1 products in plastic containers from minimum postconsumer recycled
2 content requirements.

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

4 (2) The following hearings shall not be conducted by the hearings
5 board:

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

8 (b) Hearings conducted by the department pursuant to RCW
9 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,
10 70A.15.3110, and 90.44.180.

11 (c) Appeals of decisions by the department under RCW 90.03.110
12 and 90.44.220.

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

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

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

20 (1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160,
21 70A.205.280, 70A.300.090, 70A.20.050, 70A.245.040, 70A.245.050,
22 70A.245.070, 70A.245.080, 70A.65.200, 70A.455.090, 88.46.090,
23 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102
24 and chapter 70A.355 RCW shall be imposed by a notice in writing,
25 either by certified mail with return receipt requested or by personal
26 service, to the person incurring the penalty from the department or
27 the local air authority, describing the violation with reasonable
28 particularity. For penalties issued by local air authorities, within
29 (~~thirty~~) 30 days after the notice is received, the person incurring
30 the penalty may apply in writing to the authority for the remission
31 or mitigation of the penalty. Upon receipt of the application, the
32 authority may remit or mitigate the penalty upon whatever terms the
33 authority in its discretion deems proper. The authority may ascertain
34 the facts regarding all such applications in such reasonable manner
35 and under such rules as it may deem proper and shall remit or
36 mitigate the penalty only upon a demonstration of extraordinary
37 circumstances such as the presence of information or factors not
38 considered in setting the original penalty.

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

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

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

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

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

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

28 (5) All penalties recovered shall be paid into the state treasury
29 and credited to the general fund except those penalties imposed
30 pursuant to RCW 18.104.155, which shall be credited to the
31 reclamation account as provided in RCW 18.104.155(7), RCW
32 70A.15.3160, the disposition of which shall be governed by that
33 provision, RCW 70A.245.040 and 70A.245.050, which shall be credited
34 to the recycling enhancement account created in RCW 70A.245.100, RCW
35 70A.300.090, which shall be credited to the model toxics control
36 operating account created in RCW 70A.305.180, RCW 70A.65.200, which
37 shall be credited to the climate investment account created in RCW
38 70A.65.250, RCW 90.56.330, which shall be credited to the coastal
39 protection fund created by RCW 90.48.390, and RCW 70A.355.070, which

1 shall be credited to the underground storage tank account created by
2 RCW 70A.355.090.

3 **PART 9**
4 **Miscellaneous**

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

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

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

15 (1) RCW 70A.455.110 (Compostable products revolving account) and
16 2020 c 20 s 1450 & 2019 c 265 s 11; and

17 (2) RCW 70A.455.900 (Effective date—2019 c 265) and 2019 c 265 s
18 13.

19 NEW SECTION. **Sec. 904.** If any provision of this act or its
20 application to any person or circumstance is held invalid, the
21 remainder of the act or the application of the provision to other
22 persons or circumstances is not affected.

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

E2SHB 1799 - S COMM AMD
By Committee on Environment, Energy & Technology

ADOPTED 3/3/2022

27 On page 1, line 1 of the title, after "management;" strike the
28 remainder of the title and insert "amending RCW 70A.205.040,

1 70A.205.015, 69.80.031, 69.80.040, 89.08.615, 43.155.020, 36.70.330,
2 39.30.040, 70A.455.010, 70A.455.020, 70A.455.040, 70A.455.050,
3 70A.455.060, 70A.455.070, 70A.455.080, 70A.455.090, 70A.455.100, and
4 70A.455.030; reenacting and amending RCW 43.21B.110 and 43.21B.300;
5 adding new sections to chapter 70A.205 RCW; adding a new section to
6 chapter 43.21C RCW; adding a new section to chapter 15.04 RCW; adding
7 a new section to chapter 36.70A RCW; adding a new section to chapter
8 35.63 RCW; adding a new section to chapter 35A.63 RCW; adding new
9 sections to chapter 43.19A RCW; adding a new section to chapter
10 70A.455 RCW; adding a new chapter to Title 70A RCW; creating new
11 sections; repealing RCW 70A.455.110 and 70A.455.900; and prescribing
12 penalties."

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