
HOUSE BILL 1488

State of Washington

67th Legislature

2021 Regular Session

By Representatives Fey, Senn, Walen, Peterson, Lekanoff, Hackney, Slatter, Duerr, and Pollet

Read first time 02/05/21. Referred to Committee on Environment & Energy.

1 AN ACT Relating to the management of plastic packaging materials;
2 amending RCW 70A.200.140; reenacting and amending RCW 43.21B.110;
3 adding a new section to chapter 42.56 RCW; adding a new chapter to
4 Title 70A RCW; creating a new section; and prescribing penalties.

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

6 NEW SECTION. **Sec. 1.** (1) Sustainable and resilient markets for
7 recycled materials are essential to any successful recycling system.
8 For many years, Washington has depended on foreign markets to accept
9 the recyclable materials that are collected for recycling in the
10 state. Developing domestic markets for recycled materials benefits
11 the environment and the state's economy and is critical due to the
12 loss of foreign markets.

13 (2) China's 2018 national sword policy bans the importation of
14 recycled mixed paper and certain types of recycled plastic and
15 imposes a stringent contamination limit on all other recycled
16 material imports. Washington's recycling facilities are struggling to
17 find markets for recyclable materials.

18 (3) Plastic packaging can be recycled and can contain recycled
19 content in order to close the loop in the recycling stream. Many
20 companies have already taken the initiative at closing the loop by
21 using plastic bottles that contain 100 percent recycled content.

1 Since November 2010, one national juice company has been using
2 bottles made with 100 percent postconsumer recycled content for all
3 of its juices and juice smoothies. In January 2018, an international
4 beverage producer announced that it will make all its bottles from
5 100 percent recycled plastic by 2025.

6 (4) The legislature intends that costs to plastic packaging
7 producers will be capped and predictable. The requirements imposed by
8 this chapter are reasonable and are achievable at minimal cost
9 relative to the burden imposed by the continued excessive use of
10 virgin materials in plastic packaging in Washington.

11 (5) The legislature encourages plastic packaging producers to use
12 plastic packaging that exceeds the standards set forth in this
13 chapter.

14 (6) The legislature intends that by January 1, 2025, all plastic
15 packaging sold in the state of Washington be either recyclable or
16 compostable.

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

20 (1) "Brand" means a name, symbol, word, or mark that identifies a
21 product, rather than its components, and attributes a covered product
22 that is packaging utilized by the product to the brand holder of the
23 product as the producer.

24 (2) "Brand holder" means a person who owns or licenses a brand or
25 who otherwise has rights to market a product under the brand, whether
26 or not the brand trademark is registered.

27 (3) "Compostable" means a covered product that is capable of
28 undergoing aerobic biological decomposition in a system meeting the
29 requirements of chapters 70A.205 and 70A.455 RCW, that results in the
30 material broken down primarily into carbon dioxide, water, inorganic
31 compounds, and biomass.

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

33 (5) "Infant formula" means any liquid food described or sold as
34 an alternative for human milk for the feeding of infants.

35 (6) (a) "Medical food" means a food or beverage that is formulated
36 to be consumed, or administered enterally under the supervision of a
37 physician, and that is intended for specific dietary management of
38 diseases or health conditions for which distinctive nutritional

1 requirements, based on recognized scientific principles, are
2 established by medical evaluation.

3 (b) "Medical food" includes a specially formulated and processed
4 product, for the partial or exclusive feeding of a patient by means
5 of oral intake or enteral feeding by tube, and is not a naturally
6 occurring foodstuff used in its natural state.

7 (c) "Medical food" includes any product that meets the definition
8 of "medical food" in the federal food, drug, and cosmetic act 21
9 U.S.C. Sec. 360ee (b) (3).

10 (7) (a) "Plastic packaging" means the portion of packaging made
11 from plastic, whether alone or in combination with another material,
12 including packaging that bonds plastic with other materials together,
13 such as metal lids bonded to plastic bottles, blister packs combining
14 plastic and paperboard, but excluding plastic-coated paper packaging
15 and aseptic containers, and is: (i) Used to protect, contain, or
16 transport a commodity or product at any point from manufacture to its
17 place of use; or (ii) attached to a commodity or product or its
18 container for the purpose of marketing or communicating information
19 about the commodity or product, and which is capable of being removed
20 and discarded when the product is put in use without adverse effect
21 on the quality or performance of the product.

22 (b) "Plastic packaging" includes packaging that is filled or
23 unfilled and packaging that is intended to be sold as a product to
24 customers.

25 (8) (a) "Postconsumer recycled content" means the percentage of
26 recycled plastic contained in or attributed to the plastic packaging
27 that is made of recycled materials derived specifically from
28 postconsumer plastic sources and processed using either mechanical or
29 advanced recycling technologies including, but not limited to,
30 depolymerization, gasification, pyrolysis, or solvolysis.

31 (b) For the purposes of this subsection, "attributed" means a
32 methodology by which a producer using mass balance allocates an
33 equivalent of its input feedstocks that were derived from advanced
34 recycling processes across one or more of its products manufacturers
35 using such feedstocks.

36 (9) (a) "Producer" means a manufacturer of plastic packaging and a
37 wholesaler, supplier, or retailer that has contractually undertaken
38 responsibility to the manufacturer for the covered product.

39 (b) "Producer" does not include:

1 (i) Government agencies, municipalities, or other political
2 subdivisions of the state;

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

5 (iii) A health care facility or a health care provider as defined
6 in RCW 70.02.010.

7 NEW SECTION. **Sec. 3.** (1) Each year, a producer of plastic
8 packaging must meet the following minimum postconsumer recycled
9 content on average across a producer's entire product line for the
10 total amount of plastic packaging sold, offered for sale, or
11 distributed in Washington effective:

12 (a) For packaging comprised primarily of resins number 1 PETE
13 (polyethylene terephthalate) or number 2 HDPE (high density
14 polyethylene) as identified in RCW 70A.220.020:

15 (i) July 1, 2023, through December 31, 2026: No less than 15
16 percent postconsumer recycled plastic;

17 (ii) January 1, 2027, through December 31, 2030: No less than 25
18 percent postconsumer recycled plastic;

19 (iii) On and after January 1, 2031: No less than 50 percent
20 postconsumer recycled plastic.

21 (b) For rigid packaging comprised primarily of resins numbers 3
22 through 7 as identified in RCW 70A.220.020:

23 (i) July 1, 2023, through December 31, 2030: No less than 15
24 percent postconsumer recycled plastic;

25 (ii) January 1, 2030, through December 31, 2035: No less than 25
26 percent postconsumer recycled plastic;

27 (iii) On and after January 1, 2036: No less than 50 percent
28 postconsumer recycled plastic.

29 (c) For flexible packaging comprised primarily of resins numbers
30 3 through 7 as identified in RCW 70A.220.020:

31 (i) July 1, 2023, through December 31, 2028: No less than 10
32 percent postconsumer recycled plastic;

33 (ii) January 1, 2029, through December 31, 2035: No less than 20
34 percent postconsumer recycled plastic;

35 (iii) On and after January 1, 2036: No less than 30 percent
36 postconsumer recycled plastic.

37 (2)(a) Beginning in 2024, and every other year thereafter, or at
38 the petition of a producer or the plastic packaging industry but not
39 more than annually, the department shall consider whether the minimum

1 postconsumer recycled content requirements established under
2 subsection (1) of this section should be reduced. The department must
3 consider a petition from the plastic packaging industry within 60
4 days of receipt and must issue a written response. A denial in part
5 or whole of the petition must be accompanied by a written explanation
6 and findings to each of the petition's claims. The department may
7 consider all petitions received as part of the same agency action or
8 proceeding.

9 (b) If the department determines that a minimum postconsumer
10 recycled content requirement should be adjusted, the adjusted rate
11 must be in effect until a new determination is made or upon the
12 expiration of the minimum postconsumer recycled content requirement's
13 effective period, whichever occurs first. The department may not
14 adjust the minimum postconsumer recycled content requirements above
15 the applicable minimum postconsumer recycled content percentage for
16 the applicable compliance period, as established in subsection (1) of
17 this section. The department may not adjust the minimum postconsumer
18 recycled content requirements below the lowest applicable material
19 compliance level set in subsection (1) of this section. In making a
20 determination to adjust the minimum postconsumer recycled content
21 requirements, the department must at least consider the following:

22 (i) Changes in market conditions, including supply and demand for
23 postconsumer recycled plastics, collection rates, and bale
24 availability;

25 (ii) Recycling rates;

26 (iii) The availability of recycled plastic suitable to meet the
27 minimum postconsumer recycled content requirements;

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

29 (v) The progress made by plastics packaging manufacturers in
30 meeting the requirements of this section; and

31 (vi) The carbon footprint of the transportation and manufacture
32 of the recycled resin.

33 (3) A producer, the plastic packaging industry, or a plastic
34 packaging manufacturer may appeal adjustments to the requirement for
35 minimum postconsumer recycled content as determined under subsections
36 (1) and (2) of this section to the pollution control hearings board
37 within 30 days of the department's determination.

38 (4) A producer that does not meet the minimum postconsumer
39 recycled content requirements established in subsection (1) of this
40 section is subject to a fee established in section 5 of this act.

1 (5) The department may grant a reduction in fees to a producer of
2 plastic packaging. In determining whether to grant the reduction, the
3 department shall consider, at a minimum, all of the following
4 factors:

5 (a) Anomalous market conditions;

6 (b) Disruption in, or lack of supply of, recycled plastics;

7 (c) The extent to which a producer has reduced overall packaging
8 waste generated with recyclable, compostable, or reusable
9 alternatives;

10 (d) Other factors that have prevented a producer from meeting the
11 requirement including, but not limited to, state or federal laws,
12 rules, or regulations.

13 (6)(a) In order to receive a reduction of the fee, a producer
14 shall submit to the department a corrective action plan detailing the
15 reasons why the producer will fail to meet or has failed to meet the
16 minimum postconsumer recycled content standard and the steps the
17 producer will take to comply with the minimum postconsumer recycled
18 content standard within the next reporting year. The department may
19 approve the corrective action plan and must reduce fees on a producer
20 once it approves the corrective action plan and the producer
21 implements the plan.

22 (b) The department must provide a written explanation for a
23 decision to approve or deny a corrective action plan, including:

24 (i) Factors or standards used by the department in reviewing a
25 corrective action plan;

26 (ii) An explanation of how the department applied standards or
27 factors under (b)(i) of this subsection to the corrective action
28 plan;

29 (iii) An explanation of actions a producer can take in a future
30 corrective action plan to reduce fees or other compliance
31 requirements;

32 (iv) An explanation of the methodology used by the department to
33 determine the fee.

34 (c) The department shall provide technical assistance and an
35 opportunity for a plastic packaging producer to update a corrective
36 action plan before issuing fees.

37 (d) Fees accrue from the point of noncompliance with the minimum
38 postconsumer recycled content standard if the department disapproves
39 the corrective action plan or if the producer fails to implement the
40 plan.

1 NEW SECTION. **Sec. 4.** (1)(a) By March 1, 2022, and annually
2 thereafter, a producer, under penalty of perjury, must report to the
3 department, in pounds and by resin type, the amount of virgin plastic
4 and postconsumer recycled plastic used for plastic packaging sold,
5 offered for sale, or distributed in Washington state in the previous
6 calendar year.

7 (b) The department must post aggregated information for all
8 producers reported under this subsection on its website.

9 (2) The department may: (a) Conduct audits and investigations for
10 the purpose of ensuring compliance with this section based on the
11 information reported under subsection (1) of this section; and (b)
12 adopt rules to implement, administer, and enforce the requirements of
13 this chapter.

14 (3) The department shall keep confidential all business trade
15 secrets and proprietary information about manufacturing processes and
16 equipment that the department gathers or becomes aware of through the
17 course of conducting audits or investigations pursuant to this
18 chapter.

19 NEW SECTION. **Sec. 5.** (1) Beginning July 1, 2023, a producer
20 that does not meet the minimum postconsumer recycled content
21 requirements across a producer's entire product line for plastic
22 packaging sold, offered for sale, or distributed in Washington as
23 established under section 3 of this act, based upon the amount in
24 pounds and in the aggregate, is subject to an annual fee.

25 (2) Beginning July 1, 2023, the department may assess fees for
26 violations.

27 (3)(a) The department shall adopt rules to implement a fee that
28 will not exceed \$200 per ton. The department may structure fees to
29 lower fees for producers that achieve partial compliance. The fee
30 structure implemented must be estimated to raise no less than
31 \$30,000,000 per biennium and no more than \$40,000,000 per biennium.

32 (b) If the department estimates that fee revenue will fall below
33 the range established in (a) of this subsection, the department must
34 implement a base fee of \$200 per ton and publish an estimate of
35 revenue expected to be raised by the fee in the report required by
36 subsection (4) of this section. The department may lower fees for
37 individual producers under section 3 (5) or (6) of this act.

38 (4) Beginning January 1, 2023, the department must publish an
39 annual report containing an annual estimate of the revenue estimated

1 to be raised by the fee, the amounts and quantities of plastic
2 packaging subject to the fee, and the number of producers currently
3 and expected to be in compliance with section 3 of this act.

4 (5) A producer must:

5 (a) Pay to the department assessed fees in quarterly
6 installments; or

7 (b) Arrange an alternative payment schedule subject to the
8 approval of the department.

9 (6) A producer may appeal fees assessed under this section to the
10 pollution control hearings board within 30 days of assessment.

11 (7) A producer shall pay the fees assessed pursuant to this
12 section, as applicable, based on the information reported to the
13 department as required under section 4 of this act in the form and
14 manner prescribed by the department.

15 (8) The department shall not spend more than 10 percent of the
16 collected fees on administration or enforcement of the program.

17 NEW SECTION. **Sec. 6.** (1) The recycling improvement account is
18 created in the state treasury. All receipts from the fee imposed on
19 plastic packaging in section 5 of this act must be deposited in the
20 account. However, until June 30, 2024, \$1,000,000 from the fee
21 imposed on plastic packaging in section 5 of this act must be
22 deposited in the waste reduction, recycling, and litter control
23 account created in RCW 70A.200.140, with the remainder deposited in
24 the recycling improvement account. Moneys in the account may be spent
25 only after appropriation.

26 (2) (a) One hundred percent of the expenditures from the account
27 must be used for distributions by the department to cities and
28 counties that are eligible for financial assistance under RCW
29 70A.205.080 for the purposes specified in (b) of this subsection, and
30 for the department's administration of this chapter.

31 (b) (i) Cities and counties must use all funds received under this
32 section for the development and implementation of:

33 (A) Actions or investments to improve recycling infrastructure
34 and the recyclability of plastic packaging through curbside recycling
35 programs;

36 (B) Depots or collection points for plastics not effectively
37 collected or processed through curbside programs; and

1 (C) Solid waste planning, management, regulation, enforcement,
2 technical assistance, and public education required under chapter
3 70A.205 RCW.

4 (ii) In adopting rules governing the distribution of funds under
5 this subsection, the department may incorporate the fund
6 prioritization criteria and process adopted by the department under
7 RCW 70A.205.080. The rules adopted by the department must distribute
8 funds to counties based on the population of the county, after
9 distributing a set minimum amount to each county.

10 (iii) The department shall develop rules governing the
11 distribution of funds under this section in conjunction with an
12 advisory committee convened by the department that includes five
13 members appointed by the Washington association of county solid waste
14 managers and five members appointed by the Washington state
15 association of local public health officials. These rules must
16 include a requirement that local governments annually report to the
17 department on how the funds are used to improve plastics recycling
18 infrastructure and the recyclability of plastic packaging. These
19 reports must be posted on the department's public website.

20 NEW SECTION. **Sec. 7.** (1) A stakeholder advisory committee for
21 the implementation of this chapter is established. The stakeholder
22 advisory committee must recommend to the department, and the
23 department may adopt by rule, methods for aggregating materials to
24 determine compliance, exemptions, exceptions, or alternative
25 compliance requirements for the provisions of sections 3 through 5 of
26 this act, that include, but are not limited to:

27 (a) Plastic packaging, including food contact packaging, that is
28 subject to federal laws, regulations, or requirements, including
29 requirements of the United States department of transportation, the
30 United States department of agriculture, or the United States food
31 and drug administration;

32 (b) Plastic packaging that is determined by the department
33 through life-cycle analysis to exhibit environmentally superior
34 performance when it does not contain postconsumer recycled content or
35 contains smaller amounts of postconsumer recycled content than
36 established by the requirements of section 3 of this act;

37 (c) Plastic packaging from producers with an annual sale or
38 distribution of less than 2,000 pounds of plastic packaging in
39 Washington;

1 (d) Plastic packaging associated with a single point of retail
2 sale in Washington;

3 (e) Plastic packaging from women or minority-owned producers, if
4 the department determines such an exemption is in the public
5 interest;

6 (f) Packaging that is necessary to provide tamper-resistant seals
7 for public health purposes or used for food protection and delivery
8 or child-resistant packaging; or

9 (g) Plastic packaging that is intended for reuse by a business as
10 part of the regular operations of the business.

11 (2) The department must provide a written explanation to the
12 stakeholder advisory committee regarding exemptions implemented or
13 denied based on stakeholder recommendations. The department may
14 include this explanation within the concise explanatory statement
15 under RCW 34.05.325.

16 (3) The department shall exempt the following plastic packaging
17 from the provisions of sections 3 through 5 of this act:

18 (a) Plastic packaging and food serviceware provided for the
19 purpose of serving prepared serving food: (i) Via a drive through;
20 (ii) in a packaged form for takeout or takeaway; or (iii) from food
21 trucks, stands, delis, or kiosks that may or may not provide shelter
22 or seating for consumers;

23 (b) Plastic bags subject to postconsumer recycled content
24 requirements under chapter 70A.530 RCW;

25 (c) Compostable packaging determined by the department to meet
26 the requirements of chapter 70A.455 RCW;

27 (d) Any material that is used in the packaging of a product that
28 is regulated as a drug, medical device, or dietary supplement by the
29 United States food and drug administration under the federal food,
30 drug, and cosmetic act (21 U.S.C. Sec. 321 et seq.) as well as drugs
31 used for veterinary medicine, including parasiticide products for
32 animals. This includes plastic packaging that contains:

33 (i) Milk, medical food, or infant formula;

34 (ii) Wine, or wine from which alcohol has been removed, in whole
35 or in part, whether or not sparkling or carbonated;

36 (iii) Distilled spirits;

37 (iv) One hundred percent fruit juice in containers that are 46
38 ounces or more in volume; and

39 (v) One hundred percent vegetable juice in containers of 16
40 ounces or more in volume;

1 (e) Plastic packaging containers that contain toxic or hazardous
2 products regulated by the federal insecticide, fungicide, and
3 rodenticide act (7 U.S.C. 136 et seq.);

4 (f) Plastic packaging containers that are manufactured for use in
5 the shipment of hazardous materials and are prohibited from being
6 manufactured with used material by federal packaging material
7 specifications and testing standards set forth in 49 C.F.R. Secs.
8 178.509 and 178.522, or are subject to testing standards set forth in
9 49 C.F.R. Secs. 178.600 through 178.609, inclusive, or to which
10 recommendations of the United Nations on the transport of dangerous
11 goods are applicable;

12 (g) Architectural paint defined in and included in a stewardship
13 plan under chapter 70A.515 RCW;

14 (h) Aerosols regulated under 49 C.F.R. Sec. 178.33b-6;

15 (i) Three and five gallon water cooler containers that are part
16 of a water cooler system; and

17 (j) Packaging not intended to be discarded but instead used for
18 the long-term or permanent storage or protection of a durable product
19 and that is intended to transport, protect, or store the product on
20 an ongoing basis, such as an included reusable carrying case for the
21 product.

22 (4) The president of the senate and the speaker of the house of
23 representatives shall jointly appoint at least one member to the
24 stakeholder advisory committee from each of the following:

25 (a) The department;

26 (b) The department of commerce;

27 (c) The utilities and transportation commission;

28 (d) Cities, including both small and large cities and cities
29 located in urban and rural counties;

30 (e) Counties, including both small and large counties and urban
31 and rural counties;

32 (f) Public sector recycling and solid waste industries;

33 (g) Private sector recycling and solid waste industries;

34 (h) A solid waste collection company regulated under chapter
35 81.77 RCW that provides curbside recycling services;

36 (i) A material recovery facility operator that processes
37 municipal solid waste from curbside recycling programs;

38 (j) A company that provides curbside recycling service pursuant
39 to a municipal contract under RCW 81.77.020;

1 (k) A trade association that represents the private sector solid
2 waste industry;

3 (l) Recycled plastic feedstock users;

4 (m) Environmental and environmental justice organizations;

5 (n) A manufacturer of plastic packaging;

6 (o) A statewide general business trade association;

7 (p) A representative of a consumer brand company or retailer that
8 utilizes plastic packaging;

9 (q) A representative of an advanced recycling technology provider
10 that processes plastic material; and

11 (r) An association that represents county solid waste managers.

12 (5) After the adoption of initial rules to implement this
13 chapter, the department must periodically reengage the stakeholder
14 advisory committee under this section to review the exemptions,
15 exceptions, or alternative compliance requirements adopted by rule
16 under this section.

17 NEW SECTION. **Sec. 8.** (1) A city, town, county, or municipal
18 corporation may not implement local recycled content requirements for
19 plastic packaging that are inconsistent with minimum postconsumer
20 recycled content as required under section 3 of this act.

21 (2) Local laws and ordinances that are inconsistent with, more
22 restrictive than, or exceed the requirements of this chapter, may not
23 be enacted and are preempted.

24 NEW SECTION. **Sec. 9.** A new section is added to chapter 42.56
25 RCW to read as follows:

26 Information submitted to the department of ecology under chapter
27 70A.--- RCW (the new chapter created in section 13 of this act), that
28 contains business trade secrets or proprietary information about
29 manufacturing processes and equipment, is exempt from disclosure
30 under this chapter.

31 **Sec. 10.** RCW 70A.200.140 and 2020 c 20 s 1076 are each amended
32 to read as follows:

33 (1) There is hereby created an account within the state treasury
34 to be known as the waste reduction, recycling, and litter control
35 account. Moneys in the account may be spent only after appropriation.
36 Expenditures from the waste reduction, recycling, and litter control
37 account shall be used as follows:

1 (a) Forty percent to the department of ecology, primarily for use
2 by the departments of ecology, natural resources, revenue,
3 transportation, and corrections, and the parks and recreation
4 commission, for litter collection programs under RCW 70A.200.170. The
5 amount to the department of ecology shall also be used for a central
6 coordination function for litter control efforts statewide; to
7 support employment of youth in litter cleanup as intended in RCW
8 70A.200.020, and for litter pick up using other authorized agencies;
9 and for statewide public awareness programs under RCW 70A.200.150(7).
10 The amount to the department shall also be used to defray the costs
11 of administering the funding, coordination, and oversight of local
12 government programs for waste reduction, litter control, recycling,
13 and composting so that local governments can apply one hundred
14 percent of their funding to achieving program goals. The amount to
15 the department of revenue shall be used to enforce compliance with
16 the litter tax imposed in chapter 82.19 RCW;

17 (b) (i) Twenty percent to the department for local government
18 funding programs for waste reduction, litter control, recycling
19 activities, and composting activities by cities and counties under
20 RCW 70A.200.190, to be administered by the department of ecology;
21 (ii) any unspent funds under (b) (i) of this subsection may be used to
22 create and pay for a matching fund competitive grant program to be
23 used by local governments for the development and implementation of
24 contamination reduction and outreach plans for inclusion in
25 comprehensive solid waste management plans or by local governments
26 and nonprofit organizations for local or statewide education programs
27 designed to help the public with litter control, waste reduction,
28 recycling, and composting of primarily the products taxed under
29 chapter 82.19 RCW. Recipients under this subsection include programs
30 to reduce wasted food and food waste that are designed to achieve the
31 goals established in RCW 70A.205.715(1) and that are consistent with
32 the plan developed in RCW 70A.205.715(3). Grants must adhere to the
33 following requirements: (A) No grant may exceed sixty thousand
34 dollars; (B) grant recipients shall match the grant funding allocated
35 by the department by an amount equal to twenty-five percent of
36 eligible expenses. A local government's share of these costs may be
37 met by cash or contributed services; (C) the obligation of the
38 department to make grant payments is contingent upon the availability
39 of the amount of money appropriated for this subsection (1) (b); and

1 (D) grants are managed under the guidelines for existing grant
2 programs; ~~((and))~~

3 (c) ~~((Forty))~~ Beginning June 30, 2021, until June 30, 2022:

4 (i) Four percent to the department of ecology to implement and
5 enforce chapter 70A.--- RCW (the new chapter created in section 13 of
6 this act);

7 (ii) Thirty-six percent to the department of ecology to: ~~((+i))~~

8 (A) Implement activities under RCW 70A.200.150 for waste reduction,
9 recycling, and composting efforts; ~~((+ii))~~ (B) provide technical
10 assistance to local governments and commercial businesses to increase
11 recycling markets and recycling and composting programs primarily for
12 the products taxed under chapter 82.19 RCW designed to educate
13 citizens about waste reduction, litter control, and recyclable and
14 compostable products and programs; ~~((+iii))~~ (C) increase access to
15 waste reduction, composting, and recycling programs, particularly for
16 food packaging and plastic bags and appropriate composting
17 techniques; and ~~((+iv))~~ (D) for programs to reduce wasted food and
18 food waste that are designed to achieve the goals established in RCW
19 70A.205.715(1) and that are consistent with the plan developed in RCW
20 70A.205.715(3); and

21 (d) After June 30, 2022, 40 percent to the department of ecology:

22 (i) To implement activities under RCW 70A.200.150 for waste
23 reduction, recycling, and composting efforts; (ii) to provide
24 technical assistance to local governments and commercial businesses
25 to increase recycling markets and recycling and composting programs
26 primarily for the products taxed under chapter 82.19 RCW designed to
27 educate citizens about waste reduction, litter control, and
28 recyclable and compostable products and programs; (iii) to increase
29 access to waste reduction, composting, and recycling programs,
30 particularly for food packaging and plastic bags and appropriate
31 composting techniques; and (iv) for programs to reduce wasted food
32 and food waste that are designed to achieve the goals established in
33 RCW 70A.205.715(1) and that are consistent with the plan developed in
34 RCW 70A.205.715(3).

35 (2) All taxes imposed in RCW 82.19.010 and fines and bail
36 forfeitures collected or received pursuant to this chapter shall be
37 deposited in the waste reduction, recycling, and litter control
38 account and used for the programs under subsection (1) of this
39 section.

1 (3) Not less than five percent and no more than ten percent of
2 the amount appropriated into the waste reduction, recycling, and
3 litter control account every biennium shall be reserved for capital
4 needs, including the purchase of vehicles for transporting crews and
5 for collecting litter and solid waste. Capital funds shall be
6 distributed among state agencies and local governments according to
7 the same criteria provided in RCW 70A.200.170 for the remainder of
8 the funds, so that the most effective waste reduction, litter
9 control, recycling, and composting programs receive the most funding.
10 The intent of this subsection is to provide funds for the purchase of
11 equipment that will enable the department to account for the greatest
12 return on investment in terms of reaching a zero litter goal.

13 (4) Funds in the waste reduction, recycling, and litter control
14 account, collected under chapter 82.19 RCW, must be prioritized for
15 the products identified under RCW 82.19.020 solely for the purposes
16 of recycling, composting, and litter collection, reduction, and
17 control programs.

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

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

27 (a) Civil penalties imposed pursuant to RCW 18.104.155,
28 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070,
29 70A.515.060, 76.09.170, 77.55.440, 78.44.250, 88.46.090, 90.03.600,
30 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

31 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
32 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070,
33 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

34 (c) Except as provided in RCW 90.03.210(2), the issuance,
35 modification, or termination of any permit, certificate, or license
36 by the department or any air authority in the exercise of its
37 jurisdiction, including the issuance or termination of a waste
38 disposal permit, the denial of an application for a waste disposal
39 permit, the modification of the conditions or the terms of a waste

1 disposal permit, or a decision to approve or deny an application for
2 a solid waste permit exemption under RCW 70A.205.260.

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

5 (e) Decisions of local health departments regarding the issuance
6 and enforcement of permits to use or dispose of biosolids under RCW
7 70A.226.090.

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

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

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

21 (i) Decisions of the department of natural resources, the
22 department of fish and wildlife, and the department that are
23 reviewable under chapter 76.09 RCW, and the department of natural
24 resources' appeals of county, city, or town objections under RCW
25 76.09.050(7).

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

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

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

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

1 (n) Decisions of the department of ecology that are appealable
2 under sections 3 and 5 of this act, to set minimum postconsumer
3 recycled content for plastic packaging and to assess fees.

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 NEW SECTION. Sec. 12. Nothing in this act changes or limits the
19 authority of the Washington utilities and transportation commission
20 to regulate collection of solid waste, including curbside collection
21 of residential recyclable materials, nor does this chapter change or
22 limit the authority of a city or town to provide the service itself
23 or by contract under RCW 81.77.020.

24 NEW SECTION. Sec. 13. Sections 1 through 8 of this act
25 constitute a new chapter in Title 70A RCW.

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