
SUBSTITUTE HOUSE BILL 1799

State of Washington

67th Legislature

2022 Regular Session

By House Environment & Energy (originally sponsored by Representatives Fitzgibbon, Berry, Duerr, Riccelli, and Harris-Talley)

READ FIRST TIME 02/03/22.

1 AN ACT Relating to organic materials management; amending RCW
2 70A.205.040, 70A.205.015, 69.80.031, 69.80.040, 89.08.615,
3 43.155.020, 36.70.330, 39.30.040, 70A.455.010, 70A.455.020,
4 70A.455.040, 70A.455.050, 70A.455.060, 70A.455.070, 70A.455.080,
5 70A.455.090, 70A.455.100, and 70A.455.030; reenacting and amending
6 RCW 43.21B.110 and 43.21B.300; adding new sections to chapter 70A.205
7 RCW; adding a new section to chapter 15.04 RCW; adding a new section
8 to chapter 36.70A RCW; adding a new section to chapter 35.63 RCW;
9 adding a new section to chapter 35A.63 RCW; adding new sections to
10 chapter 43.19A RCW; adding a new section to chapter 70A.455 RCW;
11 adding a new chapter to Title 70A RCW; creating new sections;
12 repealing RCW 70A.455.110 and 70A.455.900; and prescribing penalties.

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

14 NEW SECTION. **Sec. 1.** (1) The legislature finds that landfills
15 are a significant source of emissions of methane, a potent greenhouse
16 gas. Among other economic and environmental benefits, the diversion
17 of organic materials to productive uses will reduce methane
18 emissions.

19 (2) In order to reduce methane emissions associated with organic
20 materials, the legislature finds that it will be beneficial to
21 improve a variety of aspects of how organic materials are reduced,

1 managed, incentivized, and regulated under state law. Therefore, it
2 is the intent of the legislature to support the diversion of organic
3 materials from landfills through a variety of interventions to
4 support productive uses of organic material wastes, including by:

5 (a) Requiring some local governments to begin providing separated
6 organic material collection services within their jurisdictions in
7 order to increase volumes of organic materials collected and
8 delivered to composting and other organic material management
9 facilities and reduce the volumes of organic materials collected in
10 conjunction with other solid waste and delivered to landfills;

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

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

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

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

24 (f) Establishing various new funding and financial incentives
25 intended to increase composting and other forms of productive organic
26 materials management, helping to make the responsible management of
27 organic materials more cost-competitive with landfilling of organic
28 material wastes;

29 (g) Facilitating the siting of organic material management
30 facilities in order to ensure that adequate capacity exists to
31 process organic materials at the volumes necessary to achieve state
32 organic material diversion goals;

33 (h) Requiring local governments to procure more of the compost
34 and finished products created from their organic material wastes in
35 order to support the economic viability of processes to turn organic
36 materials into finished products, and increasing the likelihood that
37 composting and other responsible organic material management options
38 are economically viable; and

39 (i) Amending standards related to the labeling of plastic and
40 compostable products in order to reduce contamination of the waste

1 streams handled by compost and organic material management facilities
2 and improve the economic viability of those responsible organic
3 material management options.

4 **PART 1**

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

6 NEW SECTION. **Sec. 101.** A new section is added to chapter
7 70A.205 RCW to read as follows:

8 (1) (a) The state establishes a goal for the landfill disposal of
9 organic materials at a level representing a 75 percent reduction by
10 2030 in the statewide disposal of organic material waste, relative to
11 2015 levels.

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

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

17 NEW SECTION. **Sec. 102.** A new section is added to chapter
18 70A.205 RCW to read as follows:

19 (1) Beginning January 1, 2027, each jurisdiction that implements
20 a local solid waste plan under RCW 70A.205.040 must:

21 (a) Provide within the jurisdiction weekly organic solid waste
22 collection services to all residents and to businesses that generate
23 more than .25 cubic yard per week of organic materials for
24 management; and

25 (b) Provide for the organic materials management of all organic
26 solid waste collected from residents and businesses under (a) of this
27 subsection.

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

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

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

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

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

4 (i) In census tracts that have a population density of less than
5 75 people per square mile that are serviced by the jurisdiction and
6 located in unincorporated portions of a county, as determined by the
7 department, in counties not planning under chapter 36.70A RCW; and

8 (ii) Outside of urban growth areas designated pursuant to RCW
9 36.70A.110 in unincorporated portions of a county planning under
10 chapter 36.70A RCW.

11 (c) In addition to the exemptions in (a) and (b) of this
12 subsection, the department may issue a waiver to jurisdictions or
13 portions of a jurisdiction under this subsection for up to five
14 years, based on consideration of factors including the distance to
15 organic materials management facilities, the sufficiency of the
16 capacity to manage organic materials at facilities to which organic
17 materials could feasibly and economically be delivered from the
18 jurisdiction, and restrictions in the transport of organic materials
19 under chapter 17.24 RCW. The department may adopt rules to specify
20 the type of information that a waiver applicant must submit to the
21 department and to specify the department's process for reviewing and
22 approving waiver applications.

23 (d) Beginning January 1, 2030, the department may adopt a rule to
24 require that the provisions of this section apply in the
25 jurisdictions identified in (b) and (c) of this subsection, but only
26 if the department determines that the goals established in section
27 101(1) of this act have not or will not be achieved.

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

30 (1) Each county within the state, in cooperation with the various
31 cities located within such county, shall prepare a coordinated,
32 comprehensive solid waste management plan. Such plan may cover two or
33 more counties. The purpose is to plan for solid waste and materials
34 reduction, collection, and handling and management services and
35 programs throughout the state, as designed to meet the unique needs
36 of each county and city in the state. When updating a solid waste
37 management plan developed under this chapter, after June 10, 2010,
38 local comprehensive plans must consider and plan for the following
39 handling methods or services:

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

3 (b) Collection of source separated materials;

4 (c) Handling and proper preparation of materials for reuse or
5 recycling;

6 (d) Handling and proper preparation of organic materials for
7 (~~composting or anaerobic digestion~~) organic materials management;
8 and

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

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

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

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

18 (c) Recoverable paper products for recycling;

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

20 (e) Waste reduction strategies.

21 (3)(a) When newly developing, updating, or amending a solid waste
22 management plan developed under this chapter, after July 1, 2024,
23 each local comprehensive plan must consider the transition to the
24 requirements of section 102 of this act, and each comprehensive plan
25 implemented by a county must identify:

26 (i) The priority areas within the county for the establishment of
27 organic materials management facilities. Priority areas must be in
28 industrial zones and may not be located in overburdened communities
29 identified by the department of health under chapter 70A.02 RCW; and

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

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

37 (4) Each city shall:

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

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

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

6 ~~((4))~~ (5) Two or more cities may prepare a plan for inclusion
7 in the county plan. With prior notification of its home county of its
8 intent, a city in one county may enter into an agreement with a city
9 in an adjoining county, or with an adjoining county, or both, to
10 prepare a joint plan for solid waste management to become part of the
11 comprehensive plan of both counties.

12 ~~((5))~~ (6) After consultation with representatives of the cities
13 and counties, the department shall establish a schedule for the
14 development of the comprehensive plans for solid waste management. In
15 preparing such a schedule, the department shall take into account the
16 probable cost of such plans to the cities and counties.

17 ~~((6))~~ (7) Local governments shall not be required to include a
18 hazardous waste element in their solid waste management plans.

19 NEW SECTION. **Sec. 104.** (1) The department of ecology must work
20 with the Washington association of county solid waste managers, the
21 association of Washington cities, and other stakeholders to contract
22 with a third-party consultant to conduct a study of the adequacy of
23 local government solid waste management funding. The study must
24 consider cities and counties and their differences, the funding needs
25 to implement the solid waste core services model developed by the
26 Washington association of county solid waste managers, and the
27 impacts on solid waste funding resources utilized by cities and
28 counties considering potential statewide solid waste management
29 policy changes and develop options and recommendations for how to
30 provide funding for solid waste programs in the future if major
31 policy changes are enacted. The study must include a review and
32 update of current funding types and levels available, jurisdictional
33 types and sizes, and alternative funding models utilized by other
34 publicly managed solid waste programs in other states or countries
35 that may be relevant to Washington. When considering potential
36 statewide solid waste management policy changes, the study must
37 evaluate recent policy proposals considered or enacted in the last
38 four years, including proposals to reduce the load of organic
39 material waste to landfills, managing packaging and paper products

1 through extended producer responsibility programs, other proposed
2 product stewardship or extended producer responsibility programs,
3 improving or installing new or updated methane capture systems,
4 proposals to support emerging markets to maximize the financial and
5 environmental benefits that can be derived from managing organic
6 material wastes, increases in any postconsumer content requirements
7 for materials typically collected in solid waste programs, and other
8 proposals or actions which may either be related to or influence, or
9 both, solid waste funding resources. The study must evaluate the
10 impacts of the policy changes on existing revenues for local
11 government solid waste management programs and forecast any changes
12 in existing revenue levels, any need for additional revenues, and
13 changes in the level of service provided by and the costs to local
14 government solid waste management programs.

15 (2) The department of ecology must submit a report of its
16 findings and any recommendations to the appropriate committees of the
17 legislature by December 1, 2023.

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

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

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

24 (2) "Commission" means the utilities and transportation
25 commission.

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

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

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

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

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

1 (8) "Functional standards" means criteria for solid waste
2 handling expressed in terms of expected performance or solid waste
3 handling functions.

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

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

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

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

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

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

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

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

27 (17) "Recyclable materials" means those solid wastes that are
28 separated for recycling or reuse, such as papers, metals, and glass,
29 that are identified as recyclable material pursuant to a local
30 comprehensive solid waste plan. Prior to the adoption of the local
31 comprehensive solid waste plan, adopted pursuant to RCW
32 70A.205.075(2), local governments may identify recyclable materials
33 by ordinance from July 23, 1989.

34 (18) "Recycling" means transforming or remanufacturing waste
35 materials into usable or marketable materials for use other than
36 landfill disposal or incineration.

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

39 (20) "Sewage sludge" means a semisolid substance consisting of
40 settled sewage solids combined with varying amounts of water and

1 dissolved materials, generated from a wastewater treatment system,
2 that does not meet the requirements of chapter 70A.226 RCW.

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

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

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

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

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

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

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

36 (28) "Yard debris" means plant material commonly created in the
37 course of maintaining yards and gardens, and through horticulture,
38 gardening, landscaping, or similar activities. Yard debris includes
39 but is not limited to grass clippings, leaves, branches, brush,

1 weeds, flowers, roots, windfall fruit, vegetable garden debris,
2 holiday trees, and tree prunings four inches or less in diameter.

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

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

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

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

17 **PART 2**

18 **Requirements for Organics Management by Businesses**

19 NEW SECTION. Sec. 201. A new section is added to chapter
20 70A.205 RCW to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

27 (2) Wastes that are not managed on-site by the generating
28 business, wastes generated from the growth and harvest of food or
29 fiber that are managed off-site by another business engaged in the
30 growth and harvest of food or fiber, and wastes generated in
31 exceptional volumes as a result of a natural disaster or other
32 infrequent and unpreventable event, do not count for purposes of
33 determining waste volumes in (a) through (c) of this subsection.

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

38 (b) Beginning January 1, 2025, a business that generates at least
39 four cubic yards of organic material waste per week must arrange for

1 organic materials management services specifically for organic
2 material waste; and

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

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

13 (a) Source separating organic material waste from other waste and
14 subscribing to a service that includes organic material waste
15 collection and organic materials management;

16 (b) Managing its organic material waste on-site or self-haul its
17 own organic material waste for organic materials management; or

18 (c) Qualifying for exclusion from the requirements of this
19 section consistent with subsection (1)(b) of this section.

20 (4)(a) A business generating organic material waste shall arrange
21 for the services required by this section in a manner that is
22 consistent with state and local laws and requirements applicable to
23 the collection, handling, or recycling of solid and organic material
24 waste.

25 (b) Nothing in this section requires a business to dispose of
26 materials in a manner that conflicts with federal or state public
27 health or safety requirements. Nothing in this section requires
28 businesses to dispose of wastes generated in exceptional volumes as a
29 result of a natural disaster or other infrequent and unpreventable
30 event through the options established in subsection (3) of this
31 section.

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

37 (6)(a) This section does not limit the authority of a local
38 governmental agency to adopt, implement, or enforce a local organic
39 material waste recycling requirement, or a condition imposed upon a

1 self-hauler, that is more stringent or comprehensive than the
2 requirements of this chapter.

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

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

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

10 (iii) The existing right of a business to sell or donate its
11 organic materials; and

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

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

17 (d) Nothing in this section changes or limits the authority of
18 the Washington utilities and transportation commission to regulate
19 collection of solid waste, including curbside collection of
20 residential recyclable materials, nor does this section change or
21 limit the authority of a city or town to provide the service itself
22 or by contract under RCW 81.77.020.

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

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

29 (ii) "Business" does not include a multifamily residential
30 entity.

31 (b) "Food waste" has the same meaning as defined in RCW
32 70A.205.715.

33 PART 3

34 Updates to the Washington Good Samaritan Act

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

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

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

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

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

17 (c) "Donate" means to give without requiring anything of monetary
18 value from the recipient, except that the term shall include giving
19 by a nonprofit organization to another nonprofit organization,
20 notwithstanding that the donor organization has charged a nominal fee
21 to the donee organization, if the ultimate recipient or user is not
22 required to give anything of monetary value or is charged only a good
23 samaritan reduced price.

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

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

31 (f) "Good samaritan reduced price" means the price of an
32 apparently wholesome food or an apparently fit grocery product that
33 is an amount not greater than the cost of handling, administering,
34 and distributing the apparently wholesome food or apparently fit
35 grocery product.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 **PART 4**

8 **Washington Center for Sustainable Food Management**

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

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

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

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

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

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

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

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

25 (a) Coordinate the implementation of the plan;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 **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 for purchases made and usage costs incurred during the
17 fiscal year that begins on July 1st and ends on June 30th of each
18 fiscal year in which the program is in effect. Applications for
19 reimbursement must be filed before the end of the fiscal year in
20 which purchases were made and 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 prior to transport or use under
26 subsection (2) of this section;

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) An evaluation of the benefits and costs to the state of
23 expanding or furthering the strategies promoted in the program.

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

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

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

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

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

35 (4) "Financing guarantees" means the pledge of money in the
36 public works assistance account, or money to be received by the
37 public works assistance account, to the repayment of all or a portion
38 of the principal of or interest on obligations issued by local
39 governments to finance public works projects.

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

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

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

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

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

30 PART 6

31 Organic Materials Management Facility Siting

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

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

37 (1) A land use element which designates the proposed general
38 distribution and general location and extent of the uses of land for

1 agriculture, housing, commerce, industry, recreation, education,
2 public buildings and lands, and other categories of public and
3 private use of land, including a statement of the standards of
4 population density and building intensity recommended for the various
5 areas in the jurisdiction and estimates of future population growth
6 in the area covered by the comprehensive plan, all correlated with
7 the land use element of the comprehensive plan. The land use element
8 shall also provide for protection of the quality and quantity of
9 groundwater used for public water supplies and shall review drainage,
10 flooding, and stormwater runoff in the area and nearby jurisdictions
11 and provide guidance for corrective actions to mitigate or cleanse
12 those discharges that pollute Puget Sound or waters entering Puget
13 Sound. Development regulations to implement comprehensive plans that
14 are newly developed, updated, or amended after January 1, 2025, must
15 allow for the siting of organic materials management facilities in
16 the areas identified in RCW 70A.205.040(3)(a)(i) to the extent
17 necessary to provide for the establishment of the organic materials
18 management volumetric capacity identified under RCW
19 70A.205.040(3)(a)(ii);

20 (2) A circulation element consisting of the general location,
21 alignment and extent of major thoroughfares, major transportation
22 routes, trunk utility lines, and major terminal facilities, all of
23 which shall be correlated with the land use element of the
24 comprehensive plan;

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

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

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

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

1 Development regulations to implement comprehensive plans under
2 RCW 35.63.100 that are newly developed, updated, or amended after
3 January 1, 2025, must allow for the siting of organic materials
4 management facilities in the areas identified by the county in which
5 the city is located under RCW 70A.205.040(3)(a)(i) to the extent
6 necessary to provide for the establishment of the organic materials
7 management volumetric capacity identified under RCW
8 70A.205.040(3)(a)(ii).

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

11 Development regulations to implement comprehensive plans required
12 under RCW 35A.63.060 that are newly developed, updated, or amended
13 after January 1, 2025, must allow for the siting of organic materials
14 management facilities in the areas identified by the county in which
15 the city is located under RCW 70A.205.040(3)(a)(i) to the extent
16 necessary to provide for the establishment of the organic materials
17 management volumetric capacity identified under RCW
18 70A.205.040(3)(a)(ii).

19 **PART 7**

20 **Organic Materials Procurement**

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

23 (1) By January 1, 2023, each local government with a population
24 greater than 10,000 residents as measured by the office of financial
25 management using the most recent population data available, shall
26 adopt a compost procurement ordinance to implement RCW 43.19A.120. In
27 developing a compost procurement ordinance, each local government
28 shall plan for the use of compost in the following categories:

29 (a) Landscaping projects;

30 (b) Construction and postconstruction soil amendments;

31 (c) Applications to prevent erosion, filter stormwater runoff,
32 promote vegetation growth, or improve the stability and longevity of
33 roadways; and

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

36 (2) A local government that newly exceeds a population of 10,000
37 residents after January 1, 2023, as measured by the office of

1 financial management, must adopt an ordinance under this subsection
2 no later than 12 months after the office of financial management's
3 determination that the local government's population has exceeded
4 10,000.

5 (3) Each local government that adopts an ordinance under
6 subsection (1) or (2) of this section must develop strategies to
7 inform residents about the value of compost and how the jurisdiction
8 uses compost in its operations in the jurisdiction's comprehensive
9 solid waste management plan pursuant to RCW 70A.205.045.

10 (4) By December 31, 2024, and each December 31st of even-numbered
11 years thereafter, each local government that adopts an ordinance
12 under subsection (1) of this section must submit a report covering
13 the previous year's compost procurement activities to the Washington
14 center for sustainable food management created in chapter 70A.--- RCW
15 (the new chapter created in section 901 of this act) that contains
16 the following information:

17 (a) The total tons of organic material diverted throughout the
18 year;

19 (b) The volume and cost of compost purchased throughout the year;
20 and

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

22 (5) Local governments shall give priority to purchasing compost
23 products from companies that produce compost products locally, are
24 certified by a nationally recognized organization, and produce
25 compost products that are derived from municipal solid waste compost
26 programs and meet quality standards comparable to standards adopted
27 by the department of transportation or adopted by rule by the
28 department of ecology.

29 (6) Local governments may enter into collective purchasing
30 agreements if doing so is more cost-effective or efficient.

31 (7) Nothing in this section requires a compost processor to:

32 (a) Enter into a purchasing agreement with a local government;

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

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

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

37 (1) Whenever a unit of local government is required to make
38 purchases from the lowest bidder or from the supplier offering the
39 lowest price for the items desired to be purchased, the unit of local

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

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

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

22 (a) "Tax revenue" means sales taxes that units of local
23 government impose upon the sale of supplies, materials, or equipment
24 from the supplier to units of local government, and business and
25 occupation taxes that units of local government impose upon the
26 supplier that are measured by the gross receipts of the supplier from
27 the sale.

28 (b) "Unit of local government" means any county, city, town,
29 metropolitan municipal corporation, public transit benefit area,
30 county transportation authority, or other municipal or quasi-
31 municipal corporation authorized to impose sales and use taxes or
32 business and occupation taxes.

33 NEW SECTION. Sec. 703. A new section is added to chapter 43.19A
34 RCW to read as follows:

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

1 **Product Degradability Labeling**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (~~("Manufacturer" means a person, firm, association,~~
26 ~~partnership, or corporation that produces a product.~~

27 (~~7~~)) "Person" means individual, firm, association,
28 copartnership, political subdivision, government agency,
29 municipality, industry, public or private corporation, or any other
30 entity whatsoever.

31 (~~(8)~~) (7) "Plastic food packaging and food service products"
32 means food packaging and food service products that is composed of:

33 (a) Plastic; or

34 (b) Fiber or paper with a plastic coating, window, component, or
35 additive.

36 (~~(9)~~) (8) "Plastic product" means a product made of plastic,
37 whether alone or in combination with another material including, but
38 not limited to, paperboard. A plastic product includes, but is not
39 limited to, any of the following:

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

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

5 (c) A film product; or

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

7 ~~((10))~~ (9) "Standard specification" means either:

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

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

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

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

22 ~~(12))~~ (10) "Utensil" means a product designed to be used by a
23 consumer to facilitate the consumption of food or beverages,
24 including knives, forks, spoons, cocktail picks, chopsticks, splash
25 sticks, and stirrers.

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

27 (12) "Producer" means the following person responsible for
28 compliance with this chapter for a product sold, offered for sale, or
29 distributed in or into this state:

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

33 (b) If the product is manufactured by a person other than the
34 brand owner, the producer is the person who is the licensee of a
35 brand or trademark under which a product is sold, offered for sale,
36 or distributed in or into this state, whether or not the trademark is
37 registered in this state, unless the manufacturer or brand owner of
38 the product has agreed to accept responsibility under this chapter;
39 or

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

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

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

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

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

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

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

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

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

19 ~~((A))~~ (i) Meets industry standards for being distinguishable
20 upon quick inspection in both public sorting areas and in processing
21 facilities;

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

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

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

32 ~~((2) A compostable product described in subsection (1)(a)(i) or~~
33 ~~(ii) of this section must be considered compliant with the~~
34 ~~requirements of this 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 **Sec. 804.** RCW 70A.455.050 and 2019 c 265 s 5 are each amended to
4 read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (d) Be at least partially colored or partially tinted green,
24 beige, or brown.

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

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

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

30 ~~(c) Uses distinctive color schemes, green or brown color~~
31 ~~striping, or other adopted symbols, colors, marks, or design patterns~~
32 ~~that help differentiate compostable items from noncompostable~~
33 ~~materials.~~

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

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

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

1 ~~((5))~~ (4) Graphic elements are encouraged to increase
2 legibility of the word "compostable" and overall product distinction
3 that may include text boxes, stripes, bands, or a green, beige, or
4 brown tint of the product.

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

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

11 (1) A ~~((manufacturer or supplier of film products or food service~~
12 ~~products))~~ producer of plastic film bags sold, offered for sale, or
13 distributed for use in Washington that does not meet the applicable
14 ASTM standard specifications provided in RCW 70A.455.050 ~~((and~~
15 70A.455.060)) is:

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

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

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

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

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

36 (b) Discouraged from using labeling, images, and terms that may
37 reasonably be anticipated to confuse consumers into believing that
38 compostable products are compostable; and

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

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

7 (1) Upon the request by a person, including the department, a
8 ~~((manufacturer or supplier))~~ producer shall submit to that person or
9 the department, within ~~((ninety))~~ 90 days of the request,
10 nonconfidential business information and documentation demonstrating
11 compliance with this chapter, in a format that is easy to understand
12 and scientifically accurate.

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

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

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

35 (b) The enforcement of this chapter must be based primarily on
36 complaints filed with the department and cities and counties. The
37 department must establish a forum for the filing of complaints.
38 Cities, counties, or any person may file complaints with the

1 department using the forum, and cities and counties may review
2 complaints filed with the department via the forum. The forum
3 established by the department may include a complaint form on the
4 department's website, a telephone hotline, or a public outreach
5 strategy relying upon electronic social media to receive complaints
6 that allege violations. The department, in collaboration with the
7 cities and counties, must provide education and outreach activities
8 to inform retail establishments, consumers, and producers about the
9 requirements of this chapter.

10 ~~(2) ((Any civil penalties collected pursuant to this section must~~
11 ~~be paid to the office of the city attorney, city prosecutor, district~~
12 ~~attorney, or attorney general, whichever office brought the action.~~
13 ~~Penalties collected by the attorney general on behalf of the state~~
14 ~~must be deposited in the compostable products revolving account~~
15 ~~created in RCW 70A.455.110)) Penalties issued by the department are~~
16 ~~appealable to the pollution control hearings board established in~~
17 ~~chapter 43.21B RCW.~~

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

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

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

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

34 (2) (a) A city or county enforcing a requirement of this chapter
35 must send a written notice and a copy of the requirements to a
36 noncompliant ~~((manufacturer or supplier))~~ producer of an alleged
37 violation, who will have ~~((ninety))~~ 90 days to become compliant. ~~((A~~
38 city, county, or the state may assess a first penalty if the
39 manufacturer or supplier has not met the requirements ninety days

1 following the date the notification was sent. A city, county, or the
2 state))

3 (b) A city or county enforcing a requirement of this chapter may
4 assess a first penalty if the producer has not met the requirements
5 90 days following the date the notification was sent. A city or
6 county may impose second, third, and subsequent penalties on a
7 ((~~manufacturer or supplier~~)) producer that remains noncompliant with
8 the requirements of this chapter for every month of noncompliance.

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

11 NEW SECTION. Sec. 810. A new section is added to chapter
12 70A.455 RCW to read as follows:

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

15 (2) Producers of a product subject to RCW 70A.455.040,
16 70A.455.050, or 70A.455.060 must submit, under penalty of perjury, a
17 declaration that the product meets the standards established under
18 those sections of this chapter for the product. This declaration must
19 be submitted to the department:

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

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

24 (c) Prior to the sale or distribution of a product whose method
25 of compliance with the standards established in RCW 70A.455.040,
26 70A.455.050, or 70A.455.060 is materially changed from the method of
27 compliance used at the last declaration submission under this
28 section.

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

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

33 (1) Except as provided in this chapter, no ((~~manufacturer or~~
34 ~~supplier~~)) producer may sell, offer for sale, or distribute for use
35 in this state a plastic product that is labeled with the term
36 "biodegradable," "degradable," "decomposable," "oxo-degradable," or
37 any similar form of those terms, or in any way imply that the plastic

1 product will break down, fragment, biodegrade, or decompose in a
2 landfill or other environment.

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

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

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

15 (a) Civil penalties imposed pursuant to RCW 18.104.155,
16 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070,
17 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080,
18 70A.65.200, 70A.455.090, 76.09.170, 77.55.440, 78.44.250, 88.46.090,
19 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

20 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
21 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070,
22 70A.245.020, 70A.65.200, 86.16.020, 88.46.070, 90.14.130, 90.46.250,
23 90.48.120, and 90.56.330.

24 (c) Except as provided in RCW 90.03.210(2), the issuance,
25 modification, or termination of any permit, certificate, or license
26 by the department or any air authority in the exercise of its
27 jurisdiction, including the issuance or termination of a waste
28 disposal permit, the denial of an application for a waste disposal
29 permit, the modification of the conditions or the terms of a waste
30 disposal permit, or a decision to approve or deny an application for
31 a solid waste permit exemption under RCW 70A.205.260.

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

34 (e) Decisions of local health departments regarding the issuance
35 and enforcement of permits to use or dispose of biosolids under RCW
36 70A.226.090.

37 (f) Decisions of the department regarding waste-derived
38 fertilizer or micronutrient fertilizer under RCW 15.54.820, and

1 decisions of the department regarding waste-derived soil amendments
2 under RCW 70A.205.145.

3 (g) Decisions of local conservation districts related to the
4 denial of approval or denial of certification of a dairy nutrient
5 management plan; conditions contained in a plan; application of any
6 dairy nutrient management practices, standards, methods, and
7 technologies to a particular dairy farm; and failure to adhere to the
8 plan review and approval timelines in RCW 90.64.026.

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

12 (i) Decisions of the department of natural resources, the
13 department of fish and wildlife, and the department that are
14 reviewable under chapter 76.09 RCW, and the department of natural
15 resources' appeals of county, city, or town objections under RCW
16 76.09.050(7).

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

19 (k) Decisions of the department of fish and wildlife to issue,
20 deny, condition, or modify a hydraulic project approval permit under
21 chapter 77.55 RCW, to issue a stop work order, to issue a notice to
22 comply, to issue a civil penalty, or to issue a notice of intent to
23 disapprove applications.

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

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

30 (n) Decisions of the department of ecology that are appealable
31 under RCW 70A.245.020 to set recycled minimum postconsumer content
32 for covered products or to temporarily exclude types of covered
33 products in plastic containers from minimum postconsumer recycled
34 content requirements.

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

36 (2) The following hearings shall not be conducted by the hearings
37 board:

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

1 (b) Hearings conducted by the department pursuant to RCW
2 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,
3 70A.15.3110, and 90.44.180.

4 (c) Appeals of decisions by the department under RCW 90.03.110
5 and 90.44.220.

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

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

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

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

32 (2) Any penalty imposed under this section may be appealed to the
33 pollution control hearings board in accordance with this chapter if
34 the appeal is filed with the hearings board and served on the
35 department or authority (~~thirty~~) 30 days after the date of receipt
36 by the person penalized of the notice imposing the penalty or
37 (~~thirty~~) 30 days after the date of receipt of the notice of
38 disposition by a local air authority of the application for relief
39 from penalty.

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

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

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

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

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

20 (5) All penalties recovered shall be paid into the state treasury
21 and credited to the general fund except those penalties imposed
22 pursuant to RCW 18.104.155, which shall be credited to the
23 reclamation account as provided in RCW 18.104.155(7), RCW
24 70A.15.3160, the disposition of which shall be governed by that
25 provision, RCW 70A.245.040 and 70A.245.050, which shall be credited
26 to the recycling enhancement account created in RCW 70A.245.100, RCW
27 70A.300.090, which shall be credited to the model toxics control
28 operating account created in RCW 70A.305.180, RCW 70A.65.200, which
29 shall be credited to the climate investment account created in RCW
30 70A.65.250, RCW 90.56.330, which shall be credited to the coastal
31 protection fund created by RCW 90.48.390, and RCW 70A.355.070, which
32 shall be credited to the underground storage tank account created by
33 RCW 70A.355.090.

34 **PART 9**

35 **Miscellaneous**

36 NEW SECTION. **Sec. 901.** Sections 401 and 402 of this act
37 constitute a new chapter in Title 70A RCW.

1 NEW SECTION. **Sec. 902.** The following acts or parts of acts are
2 each repealed:

3 (1) RCW 70A.455.110 (Compostable products revolving account) and
4 2020 c 20 s 1450 & 2019 c 265 s 11; and

5 (2) RCW 70A.455.900 (Effective date—2019 c 265) and 2019 c 265 s
6 13.

7 NEW SECTION. **Sec. 903.** If any provision of this act or its
8 application to any person or circumstance is held invalid, the
9 remainder of the act or the application of the provision to other
10 persons or circumstances is not affected.

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