

CERTIFICATION OF ENROLLMENT
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1799

67th Legislature
2022 Regular Session

Passed by the House March 8, 2022
Yeas 57 Nays 40

**Speaker of the House of
Representatives**

Passed by the Senate March 3, 2022
Yeas 34 Nays 14

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1799** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1799

AS AMENDED BY THE SENATE

Passed Legislature - 2022 Regular Session

State of Washington **67th Legislature** **2022 Regular Session**

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

READ FIRST TIME 02/07/22.

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 43.21C RCW; adding a new section
8 to chapter 15.04 RCW; adding a new section to chapter 36.70A RCW;
9 adding a new section to chapter 35.63 RCW; adding a new section to
10 chapter 35A.63 RCW; adding new sections to chapter 43.19A RCW; adding
11 a new section to chapter 70A.455 RCW; adding a new chapter to Title
12 70A RCW; creating new sections; repealing RCW 70A.455.110 and
13 70A.455.900; and prescribing penalties.

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

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

20 (2) In order to reduce methane emissions associated with organic
21 materials, the legislature finds that it will be beneficial to

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

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

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

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

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

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

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

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

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

1 (i) Amending standards related to the labeling of plastic and
2 compostable products in order to reduce contamination of the waste
3 streams handled by compost and organic material management facilities
4 and improve the economic viability of those responsible organic
5 material management options.

6 **PART 1**

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

8 NEW SECTION. **Sec. 101.** A new section is added to chapter
9 70A.205 RCW to read as follows:

10 (1)(a) The state establishes a goal for the landfill disposal of
11 organic materials at a level representing a 75 percent reduction by
12 2030 in the statewide disposal of organic material waste, relative to
13 2015 levels.

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

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

19 NEW SECTION. **Sec. 102.** A new section is added to chapter
20 70A.205 RCW to read as follows:

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

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

26 (i) All residents; and

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

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

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

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

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

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

8 (iii) The jurisdiction has a total population between 25,000 and
9 50,000 people and curbside organic solid waste collection services
10 are not offered in any area within the jurisdiction, as of July 1,
11 2022.

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

13 (i) In census tracts that have a population density of less than
14 75 people per square mile that are serviced by the jurisdiction and
15 located in unincorporated portions of a county, as determined by the
16 department, in counties not planning under chapter 36.70A RCW; and

17 (ii) Outside of urban growth areas designated pursuant to RCW
18 36.70A.110 in unincorporated portions of a county planning under
19 chapter 36.70A RCW.

20 (c) In addition to the exemptions in (a) and (b) of this
21 subsection, the department may issue a renewable waiver to
22 jurisdictions or portions of a jurisdiction under this subsection for
23 up to five years, based on consideration of factors including the
24 distance to organic materials management facilities, the sufficiency
25 of the capacity to manage organic materials at facilities to which
26 organic materials could feasibly and economically be delivered from
27 the jurisdiction, and restrictions in the transport of organic
28 materials under chapter 17.24 RCW. The department may adopt rules to
29 specify the type of information that a waiver applicant must submit
30 to the department and to specify the department's process for
31 reviewing and approving waiver applications.

32 (d) Beginning January 1, 2030, the department may adopt a rule to
33 require that the provisions of this section apply in the
34 jurisdictions identified in (b) and (c) of this subsection, but only
35 if the department determines that the goals established in section
36 101(1) of this act have not or will not be achieved.

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

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

3 (1) Each county within the state, in cooperation with the various
4 cities located within such county, shall prepare a coordinated,
5 comprehensive solid waste management plan. Such plan may cover two or
6 more counties. The purpose is to plan for solid waste and materials
7 reduction, collection, and handling and management services and
8 programs throughout the state, as designed to meet the unique needs
9 of each county and city in the state. When updating a solid waste
10 management plan developed under this chapter, after June 10, 2010,
11 local comprehensive plans must consider and plan for the following
12 handling methods or services:

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

15 (b) Collection of source separated materials;

16 (c) Handling and proper preparation of materials for reuse or
17 recycling;

18 (d) Handling and proper preparation of organic materials for
19 (~~composting or anaerobic digestion~~) organic materials management;
20 and

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

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

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

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

30 (c) Recoverable paper products for recycling;

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

32 (e) Waste reduction strategies.

33 (3) (a) When newly developing, updating, or amending a
34 comprehensive solid waste management plan developed under this
35 chapter, after July 1, 2024, each local comprehensive solid waste
36 management plan must consider the transition to the requirements of
37 section 102 of this act, and each comprehensive solid waste
38 management plan implemented by a county must identify:

39 (i) The priority areas within the county for the establishment of
40 organic materials management facilities. Priority areas must be in

1 industrial zones, agricultural zones, or rural zones, and may not be
2 located in overburdened communities identified by the department of
3 ecology under chapter 70A.02 RCW. Priority areas should be designated
4 with an attempt to minimize incompatible uses and potential impacts
5 on residential areas; and

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

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

13 (c)(i) Notwithstanding (a) and (b) of this subsection, and except
14 as provided in (c)(ii) of this subsection, a jurisdiction
15 implementing a local comprehensive solid waste management plan under
16 this chapter may not site the increase or expansion of any existing
17 organic materials management facility that processed more than
18 200,000 tons of material, relative to 2019 levels.

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

22 (4) Each city shall:

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

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

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

31 ~~((4))~~ (5) Two or more cities may prepare a plan for inclusion
32 in the county plan. With prior notification of its home county of its
33 intent, a city in one county may enter into an agreement with a city
34 in an adjoining county, or with an adjoining county, or both, to
35 prepare a joint plan for solid waste management to become part of the
36 comprehensive plan of both counties.

37 ~~((5))~~ (6) After consultation with representatives of the cities
38 and counties, the department shall establish a schedule for the
39 development of the comprehensive plans for solid waste management. In

1 preparing such a schedule, the department shall take into account the
2 probable cost of such plans to the cities and counties.

3 ~~((+6))~~ (7) Local governments shall not be required to include a
4 hazardous waste element in their solid waste management plans.

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

16 (2) The study must include:

17 (a) Consideration for jurisdictional type, location, size,
18 service level, and other relevant differences between cities and
19 counties;

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

22 (c) The funding needs to implement the solid waste core services
23 model developed by the Washington association of county solid waste
24 managers;

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

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

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

33 (ii) Manage products through product stewardship or extended
34 producer responsibility programs;

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

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

38 (v) Other related proposals that may impact solid waste funding
39 resources.

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

- 4 (a) The level of service provided by local government;
- 5 (b) Costs to the local government;
- 6 (c) Existing revenue levels; and
- 7 (d) The need for additional revenue.

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

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

13 (~~(As used in this chapter, unless the context indicates~~
14 ~~otherwise:)) The definitions in this section apply throughout this
15 chapter unless the context clearly requires otherwise.~~

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

17 (2) "Commission" means the utilities and transportation
18 commission.

19 (3) "Composted material" means organic solid waste that has been
20 subjected to controlled aerobic degradation at a solid waste facility
21 in compliance with the requirements of this chapter. Natural decay of
22 organic solid waste under uncontrolled conditions does not result in
23 composted material.

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

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

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

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

31 (8) "Functional standards" means criteria for solid waste
32 handling expressed in terms of expected performance or solid waste
33 handling functions.

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

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

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

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

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

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

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

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

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

27 (18) "Recycling" means transforming or remanufacturing waste
28 materials into usable or marketable materials for use other than
29 landfill disposal or incineration.

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

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

36 (21) "Soil amendment" means any substance that is intended to
37 improve the physical characteristics of the soil, except composted
38 material, commercial fertilizers, agricultural liming agents,
39 unmanipulated animal manures, unmanipulated vegetable manures, food
40 wastes, food processing wastes, and materials exempted by rule of the

1 department, such as biosolids as defined in chapter 70A.226 RCW and
2 wastewater as regulated in chapter 90.48 RCW.

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

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

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

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

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

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

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

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

38 (ii) Organic materials include, but are not limited to, manure,
39 yard debris, food waste, food processing waste, wood waste, and
40 garden waste.

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

6 (30) "Organic materials management" means management of organic
7 materials through composting, anaerobic digestion, vermiculture,
8 black soldier fly, or similar technologies.

9 **PART 2**

10 **Requirements for Organics Management by Businesses**

11 NEW SECTION. Sec. 201. A new section is added to chapter
12 70A.205 RCW to read as follows:

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

16 (i) Provide for businesses to be serviced by providers that
17 collect food waste and organic material waste for delivery to solid
18 waste facilities that provide for the organic materials management of
19 organic material waste and food waste; and

20 (ii) Are serviced by solid waste facilities that provide for the
21 organic materials management of organic material waste and food waste
22 and have capacity to accept increased volumes of organic materials
23 deliveries.

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

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

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

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

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

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

7 (d) The requirements of this section may be enforced by
8 jurisdictional health departments consistent with this chapter,
9 except that:

10 (i) A jurisdictional health department may not charge a fee to
11 permit holders to cover the costs of the jurisdictional health
12 department's administration or enforcement of the requirements of
13 this section; and

14 (ii) Prior to issuing a penalty under this section, a
15 jurisdictional health department must provide at least two written
16 notices of noncompliance with the requirements of this section to the
17 owner or operator of a business subject to the requirements of this
18 section.

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

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

27 (iii) Beginning January 1, 2026, a business that generates at
28 least four cubic yards of solid waste per week shall arrange for
29 organic materials management services specifically for organic
30 material waste, unless the department determines, by rule, that
31 additional reductions in the landfilling of organic materials would
32 be more appropriately and effectively achieved, at reasonable cost to
33 regulated businesses, through the establishment of a different
34 volumetric threshold of solid waste or organic material waste than
35 the threshold of four cubic yards of solid waste per week.

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

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

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

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

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

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

10 (a) Source separating organic material waste from other waste,
11 subscribing to a service that includes organic material waste
12 collection and organic materials management, and using such a service
13 for organic material waste generated by the business;

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

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

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

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

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

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

38 (6)(a) This section does not limit the authority of a local
39 governmental agency to adopt, implement, or enforce a local organic
40 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 right of a business to sell or donate its organic
11 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.

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

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

30 (f) "Grocery product" means a nonfood grocery product, including
31 a disposable paper or plastic product, household cleaning product,
32 laundry detergent, cleaning product, or miscellaneous household item.

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

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

1 (i) "Nonprofit organization" means an incorporated or
2 unincorporated entity that:

3 (i) Is operating for religious, charitable, or educational
4 purposes; and

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

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

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

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

28 (ii) "Safety and safety-related labeling" does not include a pull
29 date required to be placed on perishable packaged food under RCW
30 15.130.300 or a "best by," "best if used by," "use by," or "sell by"
31 date or similarly phrased date intended to communicate information to
32 a consumer regarding the freshness or quality of a food product.

33 (3)(a) A person or gleaner is not subject to civil or criminal
34 liability arising from the nature, age, packaging, or condition of
35 apparently wholesome food or an apparently fit grocery product that
36 the person or gleaner donates in good faith to a nonprofit
37 organization for ultimate distribution to needy individuals, except
38 that this subsection does not apply to an injury to or death of an
39 ultimate user or recipient of the food or grocery product that

1 results from an act or omission of the donor constituting gross
2 negligence or intentional misconduct.

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

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

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

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

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

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

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

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

2 **PART 4**

3 **Washington Center for Sustainable Food Management**

4 NEW SECTION. **Sec. 401.** The definitions in this section apply
5 throughout this chapter unless the context clearly requires
6 otherwise.

7 (1) "Center" means the Washington center for sustainable food
8 management.

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

10 (3) "Organic material" has the same definition as provided in RCW
11 70A.205.015.

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

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

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

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

20 (a) Coordinate the implementation of the plan;

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

24 (c) Maintain a website with current food waste reduction
25 information and guidance for food service establishments, consumers,
26 food processors, hunger relief organizations, and other sources of
27 food waste;

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

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

33 (f) Facilitate and coordinate public-private and nonprofit
34 partnerships focused on food waste reduction, including through
35 voluntary working groups;

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

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

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

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

11 (j) Research and develop emerging organic materials and food
12 waste reduction markets;

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

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

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

27 (B) State agencies, including the department of health and the
28 department of agriculture, in conjunction with their statutory roles
29 and responsibilities in regulating, monitoring, and supporting safe
30 food supply chains and systems;

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

33 (m) Research and provide education, outreach, and technical
34 assistance to local governments in support of the adoption of solid
35 waste ordinances or policies that establish a financial disincentive
36 for the generation of organic waste and for the ultimate disposal of
37 organic materials in landfills.

38 (4) The department may enter into an interagency agreement with
39 the department of health, the department of agriculture, or other

1 state agencies as necessary to fulfill the responsibilities of the
2 center.

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

6 NEW SECTION. **Sec. 403.** A new section is added to chapter
7 70A.205 RCW to read as follows:

8 (1) In order to obtain data as necessary to support the goals of
9 the Washington center for sustainable food management created in
10 section 402 of this act and to achieve the goals of RCW
11 70A.205.715(1), the department may establish a voluntary reporting
12 protocol for the receipt of reports by businesses that donate food
13 under RCW 69.80.031 and recipients of the donated food, and may
14 encourage the use of this voluntary reporting protocol by the
15 businesses and recipients. The department may also request that a
16 donating business or recipient of donated food provide information to
17 the department regarding the volumes, types, and timing of food
18 managed by the donating facility or business, and food waste and
19 wasted food generated by the donating facility or business. To the
20 extent practicable, the department must seek to obtain information
21 under this section in a manner compatible with any information
22 reported to the department of agriculture under RCW 43.23.290, and in
23 a manner that minimizes the reporting and information-provision
24 burdens of donating businesses and recipients.

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

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

29 The department of agriculture shall maintain an information and
30 referral service for persons and organizations that have notified the
31 department of their desire to participate in the food donation
32 program under this chapter. The department must coordinate with the
33 department of ecology to ensure that the information and referral
34 service required under this section is implemented in a manner
35 consistent with the activities of sections 402 and 403 of this act.

36 NEW SECTION. **Sec. 405.** (1) By January 1, 2025, and in
37 consultation with the office of the attorney general, the department

1 must research and adopt several model ordinances for optional use by
2 counties and cities that provide for model mechanisms for commercial
3 solid waste collection and disposal that are designed, in part, to
4 establish a financial disincentive or other disincentives for the
5 generation of organic waste and for the ultimate disposal of organic
6 materials in landfills. The model ordinances must be designed to
7 provide options that might be preferred by jurisdictions of different
8 sizes and consider other key criteria applicable to local solid waste
9 management circumstances.

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

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

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

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

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

24 **PART 5**

25 **Funding and Incentives for Methane Emissions Reduction Activities** 26 **Associated with Organic Materials Management**

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

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

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

36 (3) No more than (~~fifteen~~) 15 percent of the funds may be used
37 by the commission to develop, or to consult or contract with private

1 or public entities, such as universities or conservation districts,
2 to develop:

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

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

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

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

12 (6) Allowable uses of grant funds include:

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

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

16 (c) Down payments on equipment;

17 (d) Purchases of equipment;

18 (e) Purchase of seed, seedlings, spores, animal feed, and
19 amendments;

20 (f) Services to landowners, such as the development of site-
21 specific conservation plans to increase soil organic levels or to
22 increase usage of precision agricultural practices, or design and
23 implementation of best management practices to reduce livestock
24 emissions; (~~and~~)

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

30 (h) Scientific studies to evaluate and quantify the greenhouse
31 gas emissions avoided as a result of using crop residues as a biofuel
32 feedstock or to identify management practices that increase the
33 greenhouse gas emissions avoided as a result of using crop residues
34 as a biofuel feedstock;

35 (i) Efforts to support the farm use of anaerobic digester
36 digestate, including scientific studies, education and outreach to
37 farmers, and the purchase or lease of digestate spreading equipment;
38 and

1 (j) Other equipment purchases or financial assistance deemed
2 appropriate by the commission to fulfill the intent of RCW 89.08.610
3 through 89.08.635.

4 (7) Grant applications are eligible for costs associated with
5 technical assistance.

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

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

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

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

23 (12) Any applications involving state lands leased from the
24 department of natural resources must include the department's
25 approval.

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

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

36 (b) For the purposes of this program, "farming operation" means:
37 A commercial agricultural, silvicultural, or aquacultural facility or
38 pursuit, including the care and production of livestock and livestock
39 products, poultry and poultry products, apiary products, and plant

1 and animal production for nonfood uses; the planting, cultivating,
2 harvesting, and processing of crops; and the farming or ranching of
3 any plant or animal species in a controlled salt, brackish, or
4 freshwater environment.

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

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

33 (a) Its own compost products; or

34 (b) Compost products that it has transferred, or intends to
35 transfer, to another individual or entity, whether or not for
36 compensation.

37 (4) A farming operation may submit only one application per
38 fiscal year in which the program is in effect for purchases made and
39 usage costs incurred during the fiscal year that begins on July 1st
40 and ends on June 30th. Applications for reimbursement must be filed

1 before the end of the fiscal year in which purchases were made and
2 usage costs incurred.

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

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

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

13 (c) A farming operation is not eligible to receive more than
14 \$10,000 per fiscal year;

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

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

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

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

31 (a) Facilitate the division and distribution of available costs
32 for reimbursement; and

33 (b) Manage the day-to-day coordination of the compost
34 reimbursement program.

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

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

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

3 (c) A periodically updated evaluation of the benefits and costs
4 to the state of expanding or furthering the strategies promoted in
5 the program.

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

8 The definitions in this section apply throughout this chapter
9 unless the context clearly requires otherwise.

10 (1) "Board" means the public works board created in RCW
11 43.155.030.

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

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

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

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

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

36 (7) "Solid waste or recycling project" means remedial actions
37 necessary to bring abandoned or closed landfills into compliance with
38 regulatory requirements and the repair, restoration, and replacement
39 of existing solid waste transfer, recycling facilities, and landfill

1 projects limited to the opening of landfill cells that are in
2 existing and permitted landfills.

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

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

12 PART 6

13 Organic Materials Management Facility Siting

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

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

19 (1) A land use element which designates the proposed general
20 distribution and general location and extent of the uses of land for
21 agriculture, housing, commerce, industry, recreation, education,
22 public buildings and lands, and other categories of public and
23 private use of land, including a statement of the standards of
24 population density and building intensity recommended for the various
25 areas in the jurisdiction and estimates of future population growth
26 in the area covered by the comprehensive plan, all correlated with
27 the land use element of the comprehensive plan. The land use element
28 shall also provide for protection of the quality and quantity of
29 groundwater used for public water supplies and shall review drainage,
30 flooding, and stormwater runoff in the area and nearby jurisdictions
31 and provide guidance for corrective actions to mitigate or cleanse
32 those discharges that pollute Puget Sound or waters entering Puget
33 Sound. Development regulations to implement comprehensive plans under
34 this chapter that are newly developed, updated, or amended after
35 January 1, 2025, must allow for the siting of organic materials
36 management facilities in the areas identified in RCW
37 70A.205.040(3)(a)(i) to the extent necessary to provide for the

1 establishment of the organic materials management volumetric capacity
2 identified under RCW 70A.205.040(3)(a)(ii);

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

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

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

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

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

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

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

31 For cities not planning under RCW 36.70A.040, development
32 regulations to implement comprehensive plans required under RCW
33 35A.63.060 that are newly developed, updated, or amended after
34 January 1, 2025, must allow for the siting of organic materials
35 management facilities in the areas identified by the county in which
36 the city is located under RCW 70A.205.040(3)(a)(i) to the extent
37 necessary to provide for the establishment of the organic materials

1 management volumetric capacity identified under RCW
2 70A.205.040(3)(a)(ii).

3 **PART 7**

4 **Organic Materials Procurement**

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

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

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

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

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

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

22 (a) Landscaping projects;

23 (b) Construction and postconstruction soil amendments;

24 (c) Applications to prevent erosion, filter stormwater runoff,
25 promote vegetation growth, or improve the stability and longevity of
26 roadways; and

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

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

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

1 (a) The total tons of organic material diverted throughout the
2 year;

3 (b) The volume and cost of compost purchased throughout the year;
4 and

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

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

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

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

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

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

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

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

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

38 (2) A unit of local government may award a contract to a bidder
39 submitting the lowest bid before taxes are applied. The unit of local

1 government must provide notice of its intent to award a contract
2 based on this method prior to bids being submitted. For the purposes
3 of this subsection (2), "taxes" means only those taxes that are
4 included in "tax revenue" as defined in this section.

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

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

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

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

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

23 **PART 8**

24 **Product Degradability Labeling**

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

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

29 (a) Environmental marketing claims for plastic products, whether
30 implicit or implied, should adhere to uniform and recognized
31 standards for "compostability" and "biodegradability," since
32 misleading, confusing, and deceptive labeling can negatively impact
33 local composting programs and compost processors. Plastic products
34 marketed as being "compostable" should be readily and easily
35 identifiable as meeting these standards;

36 (b) Legitimate and responsible packaging and plastic product
37 manufacturers are already properly labeling their compostable

1 products, but many manufacturers are not. Not all compost facilities
2 and their associated processing technologies accept or are required
3 to accept compostable packaging as feedstocks. However, implementing
4 a standardized system and test methods may create the ability for
5 them to take these products in the future.

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

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

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

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

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

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

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

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

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

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

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

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

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

11 ~~(7))~~ "Person" means individual, firm, association,
12 copartnership, political subdivision, government agency,
13 municipality, industry, public or private corporation, or any other
14 entity whatsoever.

15 ~~((8))~~ (7) "Plastic food packaging and food service products"
16 means food packaging and food service products that is composed of:

17 (a) Plastic; or

18 (b) Fiber or paper with a plastic coating, window, component, or
19 additive.

20 ~~((9))~~ (8) "Plastic product" means a product made of plastic,
21 whether alone or in combination with another material including, but
22 not limited to, paperboard. A plastic product includes, but is not
23 limited to, any of the following:

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

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

28 (c) A film product; or

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

30 ~~((10))~~ (9) "Standard specification" means either:

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

34 (b) ASTM D6868 - standard specification for labeling of end items
35 that incorporate plastics and polymers as coatings or additives with
36 paper and other substrates designed to be aerobically composted in
37 municipal or industrial facilities, as it existed as of January 1,
38 2019.

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

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

7 ~~(12))~~ (10) "Utensil" means a product designed to be used by a
8 consumer to facilitate the consumption of food or beverages,
9 including knives, forks, spoons, cocktail picks, chopsticks, splash
10 sticks, and stirrers.

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

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

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

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

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

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

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

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

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

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

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

1 ~~((i))~~ (a) Meet labeling requirements established under the
2 United States federal trade commission's guides; and
3 ~~((ii))~~ (b) Feature labeling that:
4 ~~((A))~~ (i) Meets industry standards for being distinguishable
5 upon quick inspection in both public sorting areas and in processing
6 facilities;
7 ~~((B))~~ (ii) Uses a logo indicating the product has been
8 certified by a recognized third-party independent verification body
9 as meeting the ASTM standard specification; ~~(and~~
10 ~~(C))~~ (iii) Displays the word "compostable," where possible,
11 indicating the product has been tested by a recognized third-party
12 independent body and meets the ASTM standard specification; and
13 (iv) Uses green, beige, or brown labeling, color striping, or
14 other green, beige, or brown symbols, colors, tinting, marks, or
15 design patterns that help differentiate compostable items from
16 noncompostable items.
17 ~~((2) A compostable product described in subsection (1)(a)(i) or~~
18 ~~(ii) of this section must be considered compliant with the~~
19 ~~requirements of this section if it:~~
20 ~~(a) Has green or brown labeling;~~
21 ~~(b) Is labeled as compostable; and~~
22 ~~(c) Uses distinctive color schemes, green or brown color~~
23 ~~striping, or other adopted symbols, colors, marks, or design patterns~~
24 ~~that help differentiate compostable items from noncompostable~~
25 ~~materials.))~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (b) Be labeled with the word "compostable," where possible,
39 indicating the food packaging or film product has been tested by a

1 recognized third-party independent body and meets the ASTM standard
2 specification; (~~and~~)

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

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

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

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

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

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

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

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

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

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

28 ~~((5)) (4) Graphic elements are encouraged to increase~~
29 ~~legibility of the word "compostable" and overall product distinction~~
30 ~~that may include text boxes, stripes, bands, or a green, beige, or~~
31 ~~brown tint of the product.~~

32 ~~((6)) (5) A ((~~manufacturer or supplier~~)) producer is required~~
33 ~~to comply with this section only to the extent that the labeling~~
34 ~~requirements do not conflict with the federal trade commission~~
35 ~~guides.~~

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

38 (1) A ((~~manufacturer or supplier of film products or food service~~
39 products)) producer of plastic film bags sold, offered for sale, or

1 distributed for use in Washington that does not meet the applicable
2 ASTM standard specifications provided in RCW 70A.455.050 ~~((and~~
3 ~~70A.455.060))~~ is:

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

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

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

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

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

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

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

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

33 (1) Upon the request by a person, including the department, a
34 ~~((manufacturer or supplier))~~ producer shall submit to that person or

35 the department, within ~~((ninety))~~ 90 days of the request,
36 nonconfidential business information and documentation demonstrating
37 compliance with this chapter, in a format that is easy to understand
38 and scientifically accurate.

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

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

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

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

36 (2) (~~Any civil penalties collected pursuant to this section must~~
37 ~~be paid to the office of the city attorney, city prosecutor, district~~
38 ~~attorney, or attorney general, whichever office brought the action.~~
39 ~~Penalties collected by the attorney general on behalf of the state~~

1 ~~must be deposited in the compostable products revolving account~~
2 ~~created in RCW 70A.455.110))~~ Penalties issued by the department are
3 appealable to the pollution control hearings board established in
4 chapter 43.21B RCW.

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

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

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

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

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

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

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

37 NEW SECTION. **Sec. 810.** A new section is added to chapter
38 70A.455 RCW to read as follows:

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

3 (2) Producers of a product subject to RCW 70A.455.040,
4 70A.455.050, or 70A.455.060 must submit, under penalty of perjury, a
5 declaration that the product meets the standards established under
6 those sections of this chapter for the product. This declaration must
7 be submitted to the department:

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

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

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

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

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

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

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

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

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

1 department of fish and wildlife, the parks and recreation commission,
2 and authorized public entities described in chapter 79.100 RCW:

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

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

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

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

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

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

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

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

38 (i) Decisions of the department of natural resources, the
39 department of fish and wildlife, and the department that are
40 reviewable under chapter 76.09 RCW, and the department of natural

1 resources' appeals of county, city, or town objections under RCW
2 76.09.050(7).

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160,
39 70A.205.280, 70A.300.090, 70A.20.050, 70A.245.040, 70A.245.050,

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

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

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

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

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

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

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

1 in the superior court of the county of the authority's main office or
2 of any county in which the violator does business. In these actions,
3 the procedures and rules of evidence shall be the same as in an
4 ordinary civil action.

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

19 **PART 9**

20 **Miscellaneous**

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

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

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

31 (1) RCW 70A.455.110 (Compostable products revolving account) and
32 2020 c 20 s 1450 & 2019 c 265 s 11; and

33 (2) RCW 70A.455.900 (Effective date—2019 c 265) and 2019 c 265 s
34 13.

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

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

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