
SENATE BILL 5658

State of Washington

67th Legislature

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By Senators Stanford, Das, Hunt, Rivers, Saldaña, and C. Wilson

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1 AN ACT Relating to the recyclability of products and packaging;
2 amending RCW 70A.245.010, 70A.245.020, and 70A.245.030; adding a new
3 chapter to Title 70A RCW; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** The legislature finds and declares that it
6 is the public policy of the state that claims related to the
7 recyclability of a product or packaging be truthful in practice and
8 accurate. Consumers deserve accurate and useful information related
9 to how to properly handle the end of life of a product or packaging.

10 NEW SECTION. **Sec. 2.** The definitions in this section apply
11 throughout this chapter unless the context clearly requires
12 otherwise.

13 (1)(a) "Chasing arrows symbol" means an equilateral triangle,
14 formed by three arrows curved at their midpoints, depicting a
15 clockwise path, with a short gap separating the apex of each arrow
16 from the base of the adjacent arrow.

17 (b) "Chasing arrows symbol" also includes variants of that symbol
18 that are likely to be interpreted by a consumer as an implication of
19 recyclability including, but not limited to, one or more arrows
20 arranged in a circular pattern or around a globe.

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

2 NEW SECTION. **Sec. 3.** (1) A person may not offer for sale, sell,
3 distribute, or import into the state any product or packaging for
4 which a deceptive or misleading claim about the recyclability of the
5 product or packaging is made.

6 (2) A product or packaging that displays a chasing arrows symbol,
7 a chasing arrows symbol surrounding a resin identification code, or
8 any other symbol or statement indicating the product or packaging is
9 recyclable, or otherwise directing the consumer to recycle the
10 product or packaging, is deemed to be a deceptive or misleading claim
11 under this section unless the product or packaging is considered
12 recyclable in the state under section 5 of this act and is of a
13 material type and form that routinely becomes feedstock used in the
14 production of new products or packaging.

15 (a) This section does not apply to either of the following:

16 (i) Any product or packaging that is manufactured up to 18 months
17 after the date the department publishes the first material
18 characterization study required under section 4 of this act, or
19 before January 1, 2025, whichever is later; or

20 (ii) Any product or packaging manufactured up to 18 months after
21 the date the department updates the material characterization study
22 under section 4 of this act, if the product or packaging satisfied
23 or, for a new product or packaging, would have satisfied, the
24 requirements to be considered recyclable in the state under section 5
25 of this act before the publication of the updated study.

26 (b) For a product or packaging that is not considered to be
27 recyclable in the state under section 5 of this act, all the
28 following apply:

29 (i) Displaying a chasing arrows symbol or any other statement
30 indicating the product is recyclable directly on the product is
31 deemed to be deceptive or misleading under this section.

32 (ii) If a product or packaging has multiple material types, a
33 chasing arrows symbol or statement indicating recyclability may be
34 displayed on the external packaging that is considered to be
35 recyclable in the state under section 5 of this act if the chasing
36 arrows symbol or statement makes clear in the same or greater font,
37 font size, or symbol size which other components of the product or
38 packaging are not recyclable.

1 (iii) Displaying a chasing arrows symbol or any other statement
2 indicating recyclability on packaging containing a consumable product
3 shall, for purposes of this section, be deemed to refer only to the
4 packaging.

5 (c) For the purposes of this subsection, "consumable product"
6 means a commodity that is intended to be used and not disposed of.

7 (3) For the purposes of this section, none of the following
8 constitutes a deceptive or misleading claim about the recyclability
9 of the product or packaging under this section:

10 (a) A person using a chasing arrows symbol in combination with a
11 clearly visible line placed at a 45 degree angle over the chasing
12 arrows symbol to convey that an item is not recyclable.

13 (b) A consumer good that is required by any federal or Washington
14 state law or regulation to display a chasing arrows symbol.

15 (c) Directing a consumer to compost or properly dispose of a
16 consumer good through an organics recycling program.

17 (d) A resin identification code placed inside a solid equilateral
18 triangle.

19 NEW SECTION. **Sec. 4.** (1) By January 1, 2025, the department
20 shall produce a material characterization study to provide
21 information to the public sufficient for evaluating whether a product
22 or packaging is recyclable in the state according to the criteria set
23 forth in section 5 of this act and are of material types and forms
24 that routinely become feedstock used in the production of new
25 products or packaging.

26 (a) To get a representative sample of recycling programs in the
27 state, the department shall conduct and publish on its website a
28 characterization study of material types and forms that are
29 collected, sorted, sold, or transferred by facilities that process
30 recyclable materials from curbside recycling programs and other solid
31 waste facilities deemed appropriate by the department for inclusion
32 in the study.

33 (b) The material characterization study must:

34 (i) Identify what material types and forms are actively
35 recovered, and not considered contaminants, by included operations or
36 facilities; and

37 (ii) How the material collected or processed by the operations
38 and facilities was collected.

1 (2) The department shall update the material characterization
2 study required under this section every five years, with the first
3 update being issued by the department in 2028.

4 (3) For each material characterization study conducted under this
5 section, the department shall publish on its website the preliminary
6 findings of the study and conduct a public meeting to present the
7 preliminary findings and receive public comments. The public meeting
8 must occur at least 30 days after the department publishes the
9 preliminary findings. After receiving and considering public
10 comments, and within 90 days of the public meeting, the department
11 shall finalize and publish on its website the findings of the study.

12 (4) The department may publish additional information that was
13 not available at the time of the most recent periodic material
14 characterization study regarding the appropriate characterization of
15 material types and forms.

16 NEW SECTION.

Sec. 5.

(1)(a) A product or packaging is
17 considered recyclable in the state if, based on information published
18 by the department under section 4 of this act, the product or
19 packaging is of a material type and form that meets both of the
20 following requirements:

21 (i) The material type and form is collected for recycling by
22 recycling programs for jurisdictions that collectively encompass at
23 least 60 percent of the population of the state; and

24 (ii) The material type and form are sorted into defined streams
25 for recycling processes by large volume transfer or processing
26 facilities, as provided in chapter 70A.205 RCW, that process
27 materials and collectively serve at least 60 percent of recycling
28 programs statewide, with the defined streams sent to and reclaimed at
29 a reclaiming facility consistent with the requirements of chapter
30 70A.205 RCW.

31 (b) The department may adopt rules modifying the requirement to
32 encompass transfer or processing facilities other than large volume
33 transfer or processing facilities as the department deems appropriate
34 for achieving the purposes of this section.

35 (2) A product or packaging is not considered recyclable in the
36 state unless the product or packaging meets all the following
37 criteria, as applicable:

38 (a) For plastic packaging, the plastic packaging is designed to
39 not include any components, inks, adhesives, or labels that prevent

1 the recyclability of the packaging according to the APR design guide
2 published by the association of plastic recyclers; and

3 (b) For plastic products and nonplastic products and packaging,
4 the product or packaging is designed to ensure recyclability and does
5 not include any components, inks, adhesives, or labels that prevent
6 the recyclability of the product or packaging.

7 (3) A product or packaging is recyclable in the state if the
8 product or packaging has a demonstrated recycling rate of at least 75
9 percent, meaning that not less than 75 percent of the product or
10 packaging sorted and aggregated in the state is reprocessed into new
11 products or packaging.

12 (4) Before January 1, 2031, a product or packaging not collected
13 under a curbside collection program is recyclable in the state if the
14 noncurbside collection program recovers at least 60 percent of the
15 product or packaging in the program and the material has sufficient
16 commercial value to be marketed for recycling and be transported at
17 the end of its useful life to a transfer, processing, or recycling
18 facility to be sorted and aggregated into defined streams by material
19 type and form.

20 (5) After January 1, 2031, a product or packaging not collected
21 under a curbside collection program is recyclable in the state if the
22 noncurbside collection program recovers at least 75 percent of the
23 product or packaging in the program and the material has sufficient
24 commercial value to be marketed for recycling and be transported at
25 the end of its useful life to a transfer, processing, or recycling
26 facility to be sorted and aggregated into defined streams by material
27 type and form.

28 (6) A product or packaging is recyclable in the state if the
29 product or packaging is part of, and in compliance with, a program
30 established under state or federal law on or after January 1, 2024,
31 governing the recyclability or disposal of that product or packaging
32 if the director of the department determines that the product or
33 packaging will not increase contamination of curbside recycling or
34 deceive consumers as to the recyclability of the product or
35 packaging.

36 (7) The information published by the department under section 4
37 of this act may not limit the discretion of a local government under
38 existing law to decide whether, and to what extent, a material type
39 or form is accepted by a local recycling program.

1 NEW SECTION. **Sec. 6.** (1) A city, county, or the state may
2 impose civil liability in the amount of \$500 for the first violation
3 of this chapter, \$1,000 for the second violation, and \$2,000 for the
4 third and any subsequent violation.

5 (2) By January 1, 2026, the department shall implement an
6 enforcement program to investigate and identify violations of this
7 chapter.

8 **Sec. 7.** RCW 70A.245.010 and 2021 c 313 s 2 are each amended to
9 read as follows:

10 The definitions in this section apply throughout this chapter
11 unless the context clearly requires otherwise.

12 (1) "Beverage" means beverages identified in (a) through (f) of
13 this subsection, intended for human or animal consumption, and in a
14 quantity more than or equal to two fluid ounces and less than or
15 equal to one gallon:

16 (a) Water and flavored water;

17 (b) Beer or other malt beverages;

18 (c) Wine;

19 (d) Distilled spirits;

20 (e) Mineral water, soda water, and similar carbonated soft
21 drinks; and

22 (f) Any beverage other than those specified in (a) through (e) of
23 this subsection, except infant formula as defined in 21 U.S.C. Sec.
24 321(z), medical food as defined in 21 U.S.C. Sec. 360ee(b)(3), or
25 fortified oral nutritional supplements used for persons who require
26 supplemental or sole source nutritional needs due to special dietary
27 needs directly related to cancer, chronic kidney disease, diabetes,
28 or other medical conditions as determined by the department.

29 (2) "Beverage manufacturing industry" means an association that
30 represents beverage producers.

31 (3) "Condiment packaging" means packaging used to deliver single-
32 serving condiments to customers. Condiment packaging includes, but is
33 not limited to, single-serving packaging for ketchup, mustard,
34 relish, mayonnaise, hot sauce, coffee creamer, salad dressing, jelly,
35 jam, and soy sauce.

36 (4)(a) "Covered product" means an item in one of the following
37 categories subject to minimum postconsumer recycled content
38 requirements:

39 (i) Plastic trash bags;

1 (ii) Household cleaning and personal care products that use
2 plastic household cleaning and personal care product containers;
3 (~~and~~)

4 (iii) Beverages that use plastic beverage containers;

5 (iv) Products that use plastic tubs;

6 (v) Products that use thermoform plastic containers; and

7 (vi) Single-use plastic cups.

8 (b) "Covered product" does not include any type of container or
9 bag for which the state is preempted from regulating content of the
10 container material or bag material under federal law.

11 (5) "Dairy milk" means a beverage that designates milk as the
12 predominant (first) ingredient in the ingredient list on the
13 container's label.

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

15 (7) "Expanded polystyrene" means blown polystyrene and expanded
16 and extruded foams that are thermoplastic petrochemical materials
17 utilizing a styrene monomer and processed by any number of techniques
18 including, but not limited to, fusion of polymer spheres (expandable
19 bead polystyrene), injection molding, foam molding, and extrusion-
20 blow molding (extruded foam polystyrene).

21 (8) "Food service business" means a business selling or providing
22 food for consumption on or off the premises, and includes full-
23 service restaurants, fast food restaurants, cafes, delicatessens,
24 coffee shops, grocery stores, vending trucks or carts, home delivery
25 services, delivery services provided through an online application,
26 and business or institutional cafeterias.

27 (9) "Food service product" means a product intended for one-time
28 use and used for food or drink offered for sale or use. Food service
29 products include, but are not limited to, containers, plates, bowls,
30 cups, lids, beverage containers, meat trays, deli rounds, utensils,
31 sachets, straws, condiment packaging, clamshells and other hinged or
32 lidded containers, wrap, and portion cups.

33 (10) "Household cleaning and personal care product" means any of
34 the following:

35 (a) Laundry detergents, softeners, and stain removers;

36 (b) Household cleaning products;

37 (c) Liquid soap;

38 (d) Shampoo, conditioner, styling sprays and gels, and other hair
39 care products; or

1 (e) Lotion, moisturizer, facial toner, and other skin care
2 products.

3 (11) "Household cleaning and personal care product manufacturing
4 industry" means an association that represents companies that
5 manufacture household cleaning and personal care products.

6 (12) "Licensee" means a manufacturer or entity who licenses a
7 brand and manufactures a covered product under that brand.

8 (13) "Oral nutritional supplement" means a manufactured liquid,
9 powder capable of being reconstituted, or solid product that contains
10 a combination of carbohydrates, proteins, fats, fiber, vitamins, and
11 minerals intended to supplement a portion of a patient's nutrition
12 intake.

13 (14) "Plastic beverage container" means a bottle or other rigid
14 container that is capable of maintaining its shape when empty,
15 comprised solely of one or multiple plastic resins designed to
16 contain a beverage. Plastic beverage container does not include:

17 (a) Refillable beverage containers, such as containers that are
18 sufficiently durable for multiple rotations of their original or
19 similar purpose and are intended to function in a system of reuse;

20 (b) Rigid plastic containers or plastic bottles that are or are
21 used for medical devices, medical products that are required to be
22 sterile, nonprescription and prescription drugs, or dietary
23 supplements as defined in RCW 82.08.0293;

24 (c) Bladders or pouches that contain wine; ((~~or~~))

25 (d) Liners, caps, corks, closures, labels, and other items added
26 externally or internally but otherwise separate from the structure of
27 the bottle or container; or

28 (e) Other covered products subject to minimum postconsumer
29 recycled content requirements.

30 (15)(a) "Plastic household cleaning and personal care product
31 container" means a bottle, jug, or other rigid container with a neck
32 or mouth narrower than the base, and:

33 (i) A minimum capacity of eight fluid ounces or its equivalent
34 volume;

35 (ii) A maximum capacity of five fluid gallons or its equivalent
36 volume;

37 (iii) That is capable of maintaining its shape when empty;

38 (iv) Comprised solely of one or multiple plastic resins; and

39 (v) Containing a household cleaning or personal care product.

1 (b) "Plastic household cleaning and personal care product
2 container" does not include:

3 (i) Refillable household cleaning and personal care product
4 containers, such as containers that are sufficiently durable for
5 multiple rotations of their original or similar purpose and are
6 intended to function in a system of reuse; (~~and~~)

7 (ii) Rigid plastic containers or plastic bottles that are medical
8 devices, medical products that are required to be sterile, and
9 nonprescription and prescription drugs, dietary supplements as
10 defined in RCW 82.08.0293, and packaging used for those products; and

11 (iii) Other covered products subject to minimum postconsumer
12 recycled content requirements.

13 (16) "Plastic trash bag" means a bag that is made of
14 noncompostable plastic, is at least 0.70 mils thick, and is designed
15 and manufactured for use as a container to hold, store, or transport
16 materials to be discarded or recycled, and includes, but is not
17 limited to, a garbage bag, recycling bag, lawn or leaf bag, can liner
18 bag, kitchen bag, or compactor bag. "Plastic trash bag" does not
19 include any compostable bags meeting the requirements of chapter
20 70A.455 RCW.

21 (17) "Plastic trash bag manufacturing industry" means an
22 association that represents companies that manufacture plastic trash
23 bags.

24 (18) "Postconsumer recycled content" means the content of a
25 covered product made of recycled materials derived specifically from
26 recycled material generated by households or by commercial,
27 industrial, and institutional facilities in their role as end users
28 of a product that can no longer be used for its intended purpose.
29 "Postconsumer recycled content" includes returns of material from the
30 distribution chain.

31 (19)(a) "Producer" means the following person responsible for
32 compliance with minimum postconsumer recycled content requirements
33 under this chapter for a covered product sold, offered for sale, or
34 distributed in or into this state:

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

38 (ii) If the covered product is manufactured by a person other
39 than the brand owner, the producer is the person who is the licensee
40 of a brand or trademark under which a covered product is sold,

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

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

9 (b) "Producer" does not include:

10 (i) Government agencies, municipalities, or other political
11 subdivisions of the state;

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

14 (iii) De minimis producers that annually sell, offer for sale,
15 distribute, or import in or into the country for sale in Washington:

16 (A) Less than one ton of a single category of plastic beverage
17 containers, plastic household cleaning and personal care containers,
18 ~~((€))~~ plastic trash bags, plastic tubs, thermoform plastic
19 containers, or single-use plastic cups each year; or

20 (B) A single category of a covered product that in aggregate
21 generates less than \$1,000,000 each year in revenue.

22 (20)(a) "Retail establishment" means any person, corporation,
23 partnership, business, facility, vendor, organization, or individual
24 that sells or provides merchandise, goods, or materials directly to a
25 customer.

26 (b) "Retail establishment" includes, but is not limited to, food
27 service businesses, grocery stores, department stores, hardware
28 stores, home delivery services, pharmacies, liquor stores,
29 restaurants, catering trucks, convenience stores, or other retail
30 stores or vendors, including temporary stores or vendors at farmers
31 markets, street fairs, and festivals.

32 (21)(a) "Utensil" means a product designed to be used by a
33 consumer to facilitate the consumption of food or beverages,
34 including knives, forks, spoons, cocktail picks, chopsticks, splash
35 sticks, and stirrers.

36 (b) "Utensil" does not include plates, bowls, cups, and other
37 products used to contain food or beverages.

38 (22)(a) "Plastic tub" means a wide mouth rigid container, used to
39 package consumable or durable goods that reach consumers, with a
40 maximum capacity of 50 ounces, that is:

1 (i) Capable of maintaining its shape when empty;
2 (ii) Comprised solely of one or multiple plastic resins and
3 designed to contain a product; and
4 (iii) Sealed with tamper-proof film or a detachable lid capable
5 of multiple openings and closures.
6 (b) "Plastic tub" does not include:
7 (i) Household cleaning and personal care products;
8 (ii) Plastic containers that are or are used for medical devices,
9 medical products that are required to be sterile, nonprescription and
10 prescription drugs, or dietary supplements as defined in RCW
11 82.08.0293;
12 (iii) Thermoform plastic containers;
13 (iv) Single-use plastic cups; and
14 (v) Other covered products subject to minimum postconsumer
15 recycled content requirements.
16 (23)(a) "Single-use plastic cup" means a nonsealed, beverage
17 serving cup comprised solely of one or multiple plastic resins.
18 (b) "Single-use plastic cup" does not include:
19 (i) Commercially or home compostable cups;
20 (ii) Plastic lined fiber cups, also known as composite cups;
21 (iii) Household cleaning and personal care products;
22 (iv) Plastic tubs;
23 (v) Refillable containers, such as containers that are
24 sufficiently durable for multiple rotations of their original or
25 similar purpose and are intended to function in a system of reuse;
26 (vi) Plastic cups that are or are used for medical devices,
27 medical products that are required to be sterile, nonprescription and
28 prescription drugs, or dietary supplements as defined in RCW
29 82.08.0293; and
30 (vii) Other covered products subject to minimum postconsumer
31 recycled content requirements.
32 (24)(a) "Thermoform plastic container" means a clear or colored
33 plastic container, such as a clamshell, lid, tray, egg carton, or
34 similar rigid, nonbottle packaging, formed from sheets of extruded
35 plastic resin and used to package consumable or durable goods that
36 reach consumers, including:
37 (i) Hinged plastic containers, commonly known as "clamshells" or
38 "blister packaging";
39 (ii) Two-piece unhinged containers;
40 (iii) One-piece containers without lids, such as trays; and

1 (iv) Trifold or tent containers with one or more hinges and a
2 flat bottom.

3 (b) "Thermoform plastic container" does not include:

4 (i) Household cleaning and personal care products;

5 (ii) Plastic tubs;

6 (iii) Refillable containers, such as containers that are
7 sufficiently durable for multiple rotations of their original or
8 similar purpose and are intended to function in a system of reuse;

9 (iv) A lid or seal of a different material type from plastic;

10 (v) A refillable thermoform plastic container that ordinarily
11 would be returned to the manufacturer to be refilled and resold;

12 (vi) Plastic containers that are or are used for medical devices,
13 medical products that are required to be sterile, nonprescription and
14 prescription drugs, or dietary supplements as defined in RCW
15 82.08.0293;

16 (vii) Other covered products subject to minimum postconsumer
17 recycled content requirements; and

18 (viii) Thermoform plastic containers accompanying a durable good
19 when the durable good model, and the associated packaging, was
20 designed prior to January 1, 2025.

21 **Sec. 8.** RCW 70A.245.020 and 2021 c 313 s 3 are each amended to
22 read as follows:

23 (1)(a) Beginning January 1, 2023, producers that offer for sale,
24 sell, or distribute in or into Washington:

25 (i) Beverages other than wine in 187 milliliter plastic beverage
26 containers and dairy milk in plastic beverage containers must meet
27 minimum postconsumer recycled content requirements established under
28 subsection (4) of this section; and

29 (ii) Plastic trash bags must meet minimum postconsumer recycled
30 content requirements established under subsection (6) of this
31 section.

32 (b) Beginning January 1, 2025, producers that offer for sale,
33 sell, or distribute in or into Washington household cleaning and
34 personal care products in plastic household cleaning and personal
35 care product containers must meet minimum postconsumer recycled
36 content as required under subsection (5) of this section.

37 (c) Beginning January 1, 2026, producers that offer for sale,
38 sell, or distribute in or into Washington products contained in
39 plastic tubs or thermoform plastic containers must meet minimum

1 postconsumer recycled content as required under subsection (7) of
2 this section.

3 (d) Beginning January 1, 2028, producers that offer for sale,
4 sell, or distribute in or into Washington wine in 187 milliliter
5 plastic beverage containers or dairy milk in plastic beverage
6 containers must meet minimum postconsumer recycled content as
7 required under subsection (4) of this section.

8 (e) Beginning January 1, 2029, producers that offer for sale,
9 sell, or distribute in or into Washington single-use plastic cups
10 must meet minimum postconsumer recycled content as required under
11 subsection (8) of this section.

12 (2) (a) ~~((b))~~ (i) Except as provided in (a)(ii) of this
13 subsection, on or before April 1, 2022, and annually thereafter, a
14 producer that offers for sale, sells, or distributes in or into
15 Washington covered products must register with the department
16 individually or through a third-party representative registering on
17 behalf of a group of producers.

18 (ii) A producer that offers for sale, sells, or distributes in or
19 into Washington single-use plastic cups or products in plastic tubs
20 or thermoform plastic containers must register with the department
21 individually or through a third-party representative registering on
22 behalf of a group of producers on or before April 1, 2023.

23 (b) The registration information submitted to the department
24 under this section must include a list of the producers of covered
25 products and the brand names of the covered products represented in
26 the registration submittal. Beginning April 1, 2024, for plastic
27 trash bags and plastic beverage containers other than wine in 187
28 milliliter plastic beverage containers and dairy milk in plastic
29 beverage containers, April 1, 2026, for plastic household and
30 personal care product containers, ~~(and)~~ April 1, 2027, for plastic
31 tubs and thermoform plastic containers, April 1, 2029, for wine in
32 187 milliliter plastic beverage containers and dairy milk, and April
33 1, 2030, for single-use plastic cups, a producer may submit
34 registration information at the same time as the information
35 submitted through the annual reporting required under RCW
36 70A.245.030.

37 (3) (a) By January 31, 2022, and every January 31st thereafter,
38 the department must:

39 (i) Prepare an annual workload analysis for public comment that
40 identifies the annual costs it expects to incur to implement,

1 administer, and enforce this section and RCW 70A.245.030 through
2 70A.245.060 and 70A.245.090 (1), (2), and (4), including rule making,
3 in the next fiscal year for each category of covered products;

4 (ii) Determine a total annual fee payment by producers or their
5 third-party representatives for each category of covered products
6 that is adequate to cover, but not exceed, the workload identified in
7 (a)(i) of this subsection;

8 (iii) Until rules are adopted under (a)(iv) of this subsection,
9 issue a general order to all entities falling within the definition
10 of producer. The department must equitably determine fee amounts for
11 an individual producer or third-party representatives within each
12 category of covered product;

13 (iv) By 2024, adopt rules to equitably determine annual fee
14 payments by producers or their third-party representatives within
15 each category of covered product. Once such rules are adopted, the
16 general order issued under (a)(iii) of this subsection is no longer
17 effective; and

18 (v) Send notice to producers or their third-party representatives
19 of fee amounts due consistent with either the general order issued
20 under (a)(iii) of this subsection or rules adopted under (a)(iv) of
21 this subsection.

22 (b) The department must:

23 (i) Apply any remaining annual payment funds from the current
24 year to the annual payment for the coming year, if the collected
25 annual payment exceeds the department's costs for a given year; and

26 (ii) Increase annual payments for the coming year to cover the
27 department's costs, if the collected annual payment was less than the
28 department's costs for a given year.

29 (c) ~~(By)~~ (i) Except as provided in (c)(ii) of this subsection,
30 by April 1, 2022, and every April 1st thereafter, producers or their
31 third-party representative must submit a fee payment as determined by
32 the department under (a) of this subsection.

33 (ii) Producers of single-use plastic cups or products in plastic
34 tubs or thermoform plastic containers, or their third-party
35 representative must submit a fee payment as determined by the
36 department under (a) of this subsection by April 1, 2023, and every
37 April 1st thereafter.

38 (4) A producer of a beverage in a plastic beverage container must
39 meet the following annual minimum postconsumer recycled content
40 percentage on average for the total quantity of plastic beverage

1 containers, by weight, that are sold, offered for sale, or
2 distributed in or into Washington by the producer effective:

3 (a) For beverages except wine in 187 milliliter plastic beverage
4 containers and dairy milk:

5 (i) January 1, 2023, through December 31, 2025: No less than 15
6 percent postconsumer recycled content plastic by weight;

7 (ii) January 1, 2026, through December 31, 2030: No less than 25
8 percent postconsumer recycled content plastic by weight; and

9 (iii) On and after January 1, 2031: No less than 50 percent
10 postconsumer recycled content plastic by weight.

11 (b) For wine in 187 milliliter plastic beverage containers and
12 dairy milk:

13 (i) January 1, 2028, through December 31, 2030: No less than 15
14 percent postconsumer recycled content plastic by weight;

15 (ii) January 1, 2031, through December 31, 2035: No less than 25
16 percent postconsumer recycled content plastic by weight; and

17 (iii) On and after January 1, 2036: No less than 50 percent
18 postconsumer recycled content plastic by weight.

19 (5) A producer of household cleaning and personal care products
20 in plastic containers must meet the following annual minimum
21 postconsumer recycled content percentage on average for the total
22 quantity of plastic containers, by weight, that are sold, offered for
23 sale, or distributed in or into Washington by the producer effective:

24 (a) January 1, 2025, through December 31, 2027: No less than 15
25 percent postconsumer recycled content plastic by weight;

26 (b) January 1, 2028, through December 31, 2030: No less than 25
27 percent postconsumer recycled content plastic by weight; and

28 (c) On and after January 1, 2031: No less than 50 percent
29 postconsumer recycled content plastic by weight.

30 (6) A producer of plastic trash bags must meet the following
31 annual minimum postconsumer recycled content percentage on average
32 for the total quantity of plastic trash bags, by weight, that are
33 sold, offered for sale, or distributed in or into Washington by the
34 producer effective:

35 (a) January 1, 2023, through December 31, 2024: No less than 10
36 percent postconsumer recycled content plastic by weight;

37 (b) January 1, 2025, through December 31, 2026: No less than 15
38 percent postconsumer recycled content plastic by weight; and

39 (c) On and after January 1, 2027: No less than 20 percent
40 postconsumer recycled content plastic by weight.

1 (7) A producer of a product in a plastic tub or thermoform
2 plastic container must meet the following annual minimum postconsumer
3 recycled content percentage on average for the total quantity of
4 plastic tubs or thermoform plastic containers, by weight, that are
5 sold, offered for sale, or distributed in or into Washington by the
6 producer effective:

7 (a) January 1, 2026, through December 31, 2030: No less than 10
8 percent postconsumer recycled content plastic by weight;

9 (b) On and after January 1, 2031: No less than 30 percent
10 postconsumer recycled content plastic by weight.

11 (8) A producer of single-use plastic cups must meet the following
12 annual minimum postconsumer recycled content percentage on average
13 for the total quantity of single-use plastic cups, by weight, that
14 are sold, offered for sale, or distributed in or into Washington by
15 the producer effective:

16 (a) January 1, 2029, through December 31, 2030: No less than 15
17 percent postconsumer recycled content plastic by weight; and

18 (b) On and after January 1, 2031: No less than 30 percent
19 postconsumer recycled content plastic by weight.

20 (9)(a) Beginning January 1, 2024, or when rule making is
21 complete, whichever is sooner, the department may, on an annual basis
22 on January 1st, review and determine for the following year whether
23 to adjust the minimum postconsumer recycled content percentage
24 required for a type of container or product or category of covered
25 products pursuant to subsection (4), (5), (~~(6)~~) (6), (7), or (8) of
26 this section. The department's review may be initiated by the
27 department or at the petition of a producer or a covered product
28 manufacturing industry not more than once annually. When submitting a
29 petition, producers or a producer manufacturing industry must provide
30 necessary information that will allow the department to make a
31 determination under (b) of this subsection.

32 (b) In making a determination pursuant to this subsection, the
33 department must consider, at a minimum, all of the following factors:

34 (i) Changes in market conditions, including supply and demand for
35 postconsumer recycled content plastics, collection rates, and bale
36 availability both domestically and globally;

37 (ii) Recycling rates;

38 (iii) The availability of recycled plastic suitable to meet the
39 minimum postconsumer recycled content requirements pursuant to
40 subsection (4), (5), (~~(6)~~) (6), (7) or (8) of this section,

1 including the availability of high quality recycled plastic, and
2 food-grade recycled plastic from recycling programs;

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

4 (v) The technical feasibility of achieving the minimum
5 postconsumer recycled content requirements in covered products that
6 are regulated under 21 C.F.R., chapter I, subchapter G, 7 U.S.C. Sec.
7 136, 15 U.S.C. Sec. 1471-1477, 49 C.F.R. Sec. 178.33b, 49 C.F.R. Sec.
8 173, 40 C.F.R. Sec. 152.10, 15 U.S.C. Sec. 1261-1278, 49 U.S.C. 5101
9 et seq., 49 C.F.R. Sec. 178.509, 49 C.F.R. Sec. 179.522, 49 C.F.R.
10 Sec. 178.600-609, and other federal laws; and

11 (vi) The progress made by producers in achieving the goals of
12 this section.

13 (c) Under (a) of this subsection:

14 (i) The department may not adjust the minimum postconsumer
15 recycled content requirements above the minimum postconsumer recycled
16 content percentages for the year under review required pursuant to
17 subsection (4), (5), ~~((6))~~ (6), (7), or (8) of this section.

18 (ii) For plastic household cleaning and personal care product
19 containers, the department may not adjust the minimum postconsumer
20 recycled content requirements above the minimum postconsumer recycled
21 content percentages for the year under review required pursuant to
22 subsection (5) of this section or below a minimum of 10 percent.

23 (iii) For plastic trash bags, the department may not adjust the
24 minimum postconsumer recycled content requirements above the minimum
25 postconsumer recycled content percentages for the year under review
26 required pursuant to subsection (6) of this section or below the
27 minimum percentage required in subsection (6)(a) of this section.

28 (d) A producer or the manufacturing industry for a covered
29 product may appeal a decision by the department to adjust
30 postconsumer recycled content percentages under (a) of this
31 subsection or to temporarily exclude covered products from minimum
32 postconsumer recycled content requirements under subsection ~~((+8))~~
33 (10) of this section to the pollution control hearings board within
34 30 days of the department's determination.

35 ~~((+8))~~ (10) The department must temporarily exclude from minimum
36 postconsumer recycled content requirements for the upcoming year any
37 types of covered products in plastic containers for which a producer
38 annually demonstrates to the department by December 31st of a given
39 year that the achievement of postconsumer recycled content
40 requirements in the container material is not technically feasible in

1 order to comply with health or safety requirements of federal law,
2 including the federal laws specified in subsection ~~((7))~~ (9) (b) (v)
3 of this section. A producer must continue to register and report
4 consistent with the requirements of this chapter for covered products
5 temporarily excluded from minimum postconsumer recycled content
6 requirements under this subsection.

7 ~~((9))~~ (11) A producer that does not achieve the postconsumer
8 recycled content requirements established under this section is
9 subject to penalties established in RCW 70A.245.040.

10 ~~((10))~~ (12) (a) A city, town, county, or municipal corporation
11 may not implement local recycled content requirements for a covered
12 product that is subject to minimum postconsumer recycled content
13 requirements established in this section.

14 (b) A city, town, county, or municipal corporation may establish
15 local purchasing requirements that include recycled content standards
16 that exceed the minimum recycled content requirements established by
17 this chapter for plastic household cleaning and personal care product
18 containers or plastic trash bags purchased by a city, town, or
19 municipal corporation, or its contractor.

20 ~~((11))~~ (13) The department may enter into contracts for the
21 services required to implement this chapter and related duties of the
22 department.

23 ~~((12))~~ (14) In-state distributors, wholesalers, and retailers
24 in possession of covered products manufactured before the date that
25 postconsumer recycled content requirements become effective may
26 exhaust their existing stock through sales to the public.

27 **Sec. 9.** RCW 70A.245.030 and 2021 c 313 s 4 are each amended to
28 read as follows:

29 (1) (a) Except as provided in (b) ~~((and)),~~ (c), (d), and (e) of
30 this subsection, beginning April 1, 2024, each producer of covered
31 products, individually or through a third party representing a group
32 of producers, must provide an annual report to the department that
33 includes the amount in pounds of virgin plastic and the amount in
34 pounds of postconsumer recycled content by resin type used for each
35 category of covered products that are sold, offered for sale, or
36 distributed in or into Washington state, including the total
37 postconsumer recycled content resins as a percentage of total weight.
38 The report must be submitted in a format and manner prescribed by the
39 department. A manufacturer may submit national data allocated on a

1 per capita basis for Washington to approximate the information
2 required in this subsection if the producer or third-party
3 representative demonstrates to the department that state level data
4 are not available or feasible to generate.

5 (b) The requirements of (a) of this subsection apply to household
6 cleaning and personal care products in plastic containers beginning
7 April 1, 2026.

8 (c) The requirements of (a) of this subsection apply to wine in
9 187 milliliter plastic beverage containers and dairy milk in plastic
10 beverage containers beginning April 1, 2029.

11 (d) The requirements of (a) of this subsection apply to plastic
12 tubs and thermoform plastic containers beginning April 1, 2027.

13 (e) The requirements of (a) of this subsection apply to single-
14 use plastic cups beginning April 1, 2030.

15 (f) The department must post the information reported under this
16 subsection on its website, except as provided in subsection (2) of
17 this section.

18 (2) A producer that submits information or records to the
19 department under this chapter may request that the information or
20 records be made available only for the confidential use of the
21 department, the director, or the appropriate division of the
22 department. The director of the department must give consideration to
23 the request and if this action is not detrimental to the public
24 interest and is otherwise in accordance with the policies and
25 purposes of chapter 43.21A RCW, the director must grant the request
26 for the information to remain confidential as authorized in RCW
27 43.21A.160.

28 NEW SECTION. Sec. 10. Sections 1 through 6 of this act
29 constitute a new chapter in Title 70A RCW.

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