**1131-S2 AMH HARR H1573.1 - NOT FOR FLOOR USE**

**2SHB 1131** - H AMD **206**

By Representative Harris

**NOT CONSIDERED 01/02/2024**

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec.**  The legislature finds that, as of 2023, Washington's statewide waste recovery rate, which seeks to preserve public health, safety, and welfare, and conserve energy and natural resources, needs to be improved. The legislature further finds that there is not sufficient data currently collected and reported to effectively analyze current rates, trends, and challenges in recycling. The legislature further finds that in order to develop appropriate strategies to increase the statewide waste recovery rate, robust data is needed. It is therefore the intent of the legislature to collect sufficient data and develop performance rates for the recycling of packaging and paper products sold or supplied to consumers for personal use. In order to achieve this, the legislature intends to conduct a thorough needs assessment to identify necessary funding, infrastructure, and investments to achieve recommended performance rates.

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

(1) "Covered product" means packaging and paper products sold or supplied to consumers for personal use.

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

(3) "Eliminate" or "elimination," with respect to source reduction, means the removal of a plastic component from a covered material without replacing that component with a nonplastic component.

(4) "Material category" means a group of covered products that have similar properties such as chemical composition, shape, or other characteristics including, but not limited to:

(a) Plastic beverage containers;

(b) Rigid plastic, excluding plastic beverage containers;

(c) Flexible plastic;

(d) Paper;

(e) Aluminum;

(f) Steel; and

(g) Glass.

(5) "Overburdened communities" means the overburdened communities identified and prioritized by the department under RCW 70A.02.050(1)(a).

(6) "Reusable" means:

(a) For packaging that is reused or refilled, the packaging satisfies all of the following:

(i) Explicitly designed and marketed to be utilized multiple times for the same product, or for another purposeful packaging use in a supply chain;

(ii) Designed for durability to function properly in its original condition for multiple cycles of reuse or refill;

(iii) Supported by adequate infrastructure to ensure the packaging can be conveniently and safely reused or refilled for multiple cycles; and

(iv) Repeatedly recovered, inspected, and reissued into the supply chain for reuse or refill for multiple cycles.

(b) For packaging that is reused or refilled by a consumer, the packaging satisfies all of the following:

(i) Explicitly designed and marketed to be utilized multiple times for the same product;

(ii) Designed for durability to function properly in its original condition for utilization in multiple cycles of reuse or refill; and

(iii) Supported by adequate and convenient availability of retail infrastructure to ensure the packaging can be conveniently and safely reused or refilled by the consumer multiple times.

NEW SECTION. **Sec.**  (1) To inform the future development of strategies to increase recovery rates, the department must conduct a performance rates study and a statewide needs assessment that must be:

(a) Carried out by a third-party consultant selected by the department; and

(b) Funded through fees paid by producers registered under chapter 70A.245 RCW.

(2)(a) The performance rates study must be completed by September 1, 2024, and must:

(i) Use the recycling rates from the study submitted to the legislature pursuant to section 302(59), chapter 297, Laws of 2022;

(ii) Review the performance rates set and achieved in other jurisdictions and evaluate whether those rates are applicable in the state;

(iii) Recommend performance rates, including:

(A) A rate for the overall combined reuse and recycling of covered products;

(B) A separate specific minimum reuse rate, that must be counted within the overall combined reuse and recycling rate;

(C) A source reduction rate to be achieved solely by eliminating plastic components; and

(D) Performance rates for specific material categories of covered products including, but not limited to, beverage containers, mixed paper, plastic packaging, glass, and cardboard.

(b) Recommendations under (a) of this subsection must consider the feasibility of achieving recommended rates based on current rates achieved as well as current infrastructure in the state, rates achieved in other jurisdictions, and additional relevant data. The recommended performance rates must be designed to be achieved for covered products statewide by 2032.

(c) Stakeholders must have the opportunity to review and comment on a draft performance rates study at least 30 days prior to its completion.

(3) The statewide needs assessment must be completed by July 1, 2025, and must be consistent with the following requirements:

(a) The final scope of the statewide needs assessment must be determined after considering comments and recommendations from stakeholders; and

(b) Stakeholders must have the opportunity to review and comment on the draft statewide needs assessment at least 30 days prior to its completion.

(4) The statewide needs assessment must be:

(a) Informed by the findings and recommendations of the performance rates study established in this section and rates and other comments suggested by stakeholders; and

(b) Accepted from the selected consultant as complete by the department.

(5) The statewide needs assessment must:

(a) Evaluate the capacity, costs, gaps, and needs for the following factors necessary to achieve performance rate recommendations developed under subsection (1) of this section:

(i) Availability and types of recycling services for covered products;

(ii) Education and outreach activities;

(iii) Availability and performance of collection, transport, and processing capacity and infrastructure, including consideration of material quality and contamination;

(iv) Availability and performance of collection, transport, and processing capacity and infrastructure to manage compostable covered products, including consideration of the material quality and contamination;

(v) Necessary capital investments to existing reuse and recycling infrastructure; and

(vi) Infrastructure or other factors necessary to enable reuse of covered products or the recycling of covered products not currently recycled in the residential recycling system;

(b) Compile information related to actual costs incurred by government entities for curbside collection services, drop-off collection services, and other information relevant to the funding requirements to achieve performance rates, including costs for various service methods recommended by stakeholders during the study scoping process;

(c) Identify cost factors and other variables to be considered in the development of base cost formulas for establishing per unit funding needs for government entities for curbside collection services needed to achieve performance rates developed under subsection (1) of this section. Cost factors and variables to be considered in the base cost formulas include:

(i) Population size and density of a local jurisdiction;

(ii) Types of households serviced and collection method used;

(iii) Distance from a local jurisdiction to the nearest recycling facility;

(iv) Whether a jurisdiction pays for transportation and sorting of collected materials and whether it receives a commodity value from processed materials;

(v) Geographic location or other variables contributing to regional differences in costs;

(vi) Cost increases over time; and

(vii) Any other factors as determined to be necessary by the department, with input from stakeholders;

(d) Identify cost factors and other variables to be considered in the development of funding estimates for government entities for any services other than curbside collection to be carried out by government entities that may be needed to achieve performance rates developed under subsection (1) of this section;

(e) Compile relevant information to be considered in the development of criteria by the department to determine whether a covered product is recyclable, reusable, or compostable through Washington's curbside recycling collection system. The relevant information to be compiled may include whether covered product materials are:

(i) Or may be, collected, separated, and processed in sufficient quantity and quality into a marketable feedstock that can be used in the production of new products; or

(ii) Designed in a way that is problematic for reuse, recycling, or composting;

(f) Evaluate how the state's recycling system can be managed in a socially just manner as it relates to activities required under this chapter. The assessment must:

(i) Include meaningful consultation with overburdened communities and vulnerable populations;

(ii) Determine conditions and make recommendations including, at minimum:

(A) The availability of opportunities in the recycling system for women and minority individuals;

(B) The sufficiency of local government requirements related to multifamily recycling services and their implementation;

(C) Identification of activities that disproportionately impact any community and in particular overburdened communities and vulnerable populations;

(D) The sufficiency of recycling education and outreach programs relative to desired socially just management outcomes;

(E) Recommendations for improving socially just management practices and outcomes in the state's recycling system; and

(F) Evaluate the extent to which covered products contribute to litter and marine debris. The assessment should draw on available data, assess gaps, and identify strategies for improving prevention and cleanup of litter and marine debris from covered products; and

(g) Compile information from available data sources on the presence of toxic substances in covered products and their potential impacts on reuse, recycling, and composting systems. The information compiled is intended to inform the development of ecomodulation factors that incentivize the reduction of toxic substances that have potentially negative impacts when covered products are managed through reuse, recycling, and composting systems.

NEW SECTION. **Sec.**  Sections 1 through 3 of this act constitute a new chapter in Title 70A RCW."

Correct the title.

EFFECT: Strikes the underlying extended producer responsibility program, deposit return program, and postconsumer recycled content requirements, except (1) retaining a modified intent section and a narrowed definitions section, and (2) requiring producers registered with the department of ecology (ecology) under existing postconsumer recycled content requirements to pay for a performance rates study and needs assessment to be carried out by a third-party consultant selected by ecology. Provides for the performance rates study and needs assessments to be carried out in a manner similar to the rates study and needs assessment contained in the underlying bill, except that the striking amendment removes references to producer responsibility programs in other states, and removes references to eliminated components of the underlying bill.