**2301-S2.E AMS WM S5569.1 - NOT FOR FLOOR USE**

**E2SHB 2301** - S COMM AMD

By Committee on Ways & Means

**ADOPTED AS AMENDED 03/01/2024**

Strike everything after the enacting clause and insert the following:

**"PART 1**

**INTENT**

NEW SECTION. **Sec.**  INTENT. (1) The legislature finds:

(a) Washington is now experiencing the effects of a climate crisis: Hotter summers with record-breaking temperatures, devastating fires, drought conditions, and rising sea levels that erode our coastlines and are causing some communities to move upland;

(b) Methane is a potent greenhouse gas and landfills are documented by the United States environmental protection agency to be the 3rd largest human-made source, with food, yard waste, and other plant-based organic material degrading in landfills to methane;

(c) Food waste is a major issue in the United States and globally, that, according to the food and agriculture organization of the United Nations, unwanted and discarded food squanders resources, including water, land, energy, labor, and capital, estimated that one-third of the food produced in the world for human consumption, about 1,300,000,000 tons, is lost or wasted every year, and the food loss and waste in industrialized countries equates to a value of approximately $680,000,000,000;

(d) The Harvard University food law and policy clinic has estimated that 40 percent of the food supply in the United States is not eaten and that according to the United States environmental protection agency and the United States department of agriculture, food loss and waste is the single largest component of disposed municipal solid waste in the United States;

(e) In 2015, that the administrator of the United States environmental protection agency and the secretary of the United States department of agriculture announced a national goal of reducing food waste by 50 percent by the year 2030. In 2019, Washington established the same goal in RCW 70A.205.715;

(f) Compost and other products of organic material management facilities have beneficial applications and can improve soil health, water quality, and other environmental outcomes. However, in order for the products of organic material management facilities to lead to improved environmental outcomes and for the economics of the operations of these facilities to pencil out, it is important that inbound sources of organic material waste are free of plastic contamination, pesticides, and other materials that will reduce compost quality; and

(g) Farmers, processors, retailers, and food banks in Washington are leaders in addressing this issue, and in 2022, with the enactment of chapter 180, Laws of 2022 (Engrossed Second Substitute House Bill No. 1799), Washington took significant steps towards the improvement of organic material management systems.

(2) It is the legislature's intent to provide additional tools and financial resources to build on this progress in coming years by:

(a) Creating a variety of grant programs to support food waste reduction, food rescue, and other organic material management system improvements, including grants to support the implementation of new policy requirements related to organic material management;

(b) Amending solid waste management requirements in support of improved organic material management outcomes, including through the statewide standardization of colors and labels for organic, recycling, and garbage bins, and amending the organic material management service requirements in local jurisdictions and that apply to businesses;

(c) Making changes to product degradability labeling requirements;

(d) Amending the state building code in support of organic material management; and

(e) Continuing to discuss how to maximize donations of food from generators of unwanted edible food.

(3) It is the legislature's intent for the following management option preferences to apply to the management of food under this act, including the provisions of law being amended by this act, in order of most preferred to least preferred:

(a) Prevents wasted food;

(b) Donates or upcycles food;

(c) Feeds animals or leaves food unharvested;

(d) Composts or anaerobically digests materials with beneficial use of the compost, digestate, or biosolids;

(e) Anaerobically digests materials with the disposal of digestate or biosolids, or applies material to the land; and

(f) Sends materials down the drain, to landfills, or incinerates material, with or without accompanying energy recovery.

**PART 2**

**FUNDING FOR SUSTAINABLE FOOD MANAGEMENT PRIORITIES**

NEW SECTION. **Sec.**  A new section is added to chapter 70A.207 RCW to read as follows:

CENTER FOR SUSTAINABLE FOOD MANAGEMENT GRANTS.

(1) The department, through the center, must develop and administer grant programs to support activities that reduce emissions from landfills and waste-to-energy facilities through the diversion of organic materials and food waste prevention, rescue, and recovery. The department must seek stakeholder input in the design, criteria, and logistics associated with each grant program. The department must allocate grant funding across the eligible categories specified in subsection (2) of this section in a manner consistent with legislative appropriations, and that achieves the following priorities:

(a) Maximizing greenhouse gas emission reductions;

(b) Eliminating barriers to the rescue and consumption of edible food that would otherwise be wasted;

(c) Developing stable funding programs for the department to administer and stable funding opportunities for potential fund recipients to be aware of; and

(d) Preferences the following management options, in order of most preferred to least preferred:

(i) Prevents wasted food;

(ii) Donates or upcycles food;

(iii) Feeds animals or leaves food unharvested;

(iv) Composts or anaerobically digests materials with beneficial use of the compost, digestate, or biosolids;

(v) Anaerobically digests materials with the disposal of digestate or biosolids, or applies material to the land;

(vi) Sends materials down the drain, to landfills, or incinerates material, with or without accompanying energy recovery.

(2) Subject to the availability of amounts appropriated for this specific purpose, grants under this section may be awarded to the following categories of activities:

(a) Projects to prevent the surplus of unsold, uneaten food from food businesses or to standardize and improve the operating procedures associated with food donations, including efforts to standardize collection bins, provide staff training for food donors or food rescue organizations, or make other changes to increase the efficiency or efficacy of food donation procedures. Local governments, federally recognized Indian tribes and federally recognized Indian tribal government entities, nonprofit organizations, and generators of unwanted edible food are eligible applicants for grants under this subsection. Equipment and infrastructure purchases, training costs, costs associated with the development and deployment of operating protocols, and employee staff time reimbursement are eligible uses of grant funding under this subsection;

(b)(i) Projects to improve and reduce the transportation of donated foods and management of cold chains across the donated food supply chain, including through food rescue organizations. Local governments, federally recognized Indian tribes and federally recognized Indian tribal government entities, nonprofit organizations, transporters of unwanted edible food, and generators of unwanted edible food are eligible applicants for grants under this subsection. Eligible uses of grant funding under this subsection include the acquisition of vehicles, cold-storage equipment, real estate, and technology to support donated food storage and transportation system improvements.

(ii) Grants under this subsection (2)(b) may not be used for the purchase or lease of equipment that relies on a fuel source other than electricity or the purchase or lease of vehicles other than zero-emission vehicles;

(c)(i) Grant programs to support the establishment and expansion of wasted food reduction programs to benefit vulnerable communities. This grant program must be developed in consultation with the department of health and food policy stakeholders.

(ii) Nonprofit organizations, businesses, associations, federally recognized Indian tribes and federally recognized Indian tribal government entities, and local governments are eligible to receive grants under this subsection. Eligible uses of the funds may include community food hub development projects, cold food storage capacity, refrigerated transport capacity, convenings to inform innovation in wasted food reduction in retail and food service establishments, and pilot projects to reduce wasted food. No more than 20 percent of funds allocated under this subsection (2)(c) may be awarded to a single grant recipient; and

(d) Food waste tracking and analytics pilot project grants. Local governments, federally recognized Indian tribes and federally recognized Indian tribal government entities, nonprofit organizations, transporters of unwanted edible food, and generators of unwanted edible food are eligible applicants for grants under this subsection. Eligible uses of grant funding under this subsection include staff time and technology to improve food waste prevention or improve tracking of food donations through the food supply chain and to provide data useful to enabling more efficient and effective outcomes for the provision of food available for rescue.

(3) The department may establish additional eligibility criteria or application process requirements beyond those described in subsection (2) of this section for a category or categories of activity. The department may, as a condition of the award of a grant under this section, require the reporting of information to the department regarding the outcomes of the funded activities.

(4) The department may award grants to eligible applicants meeting the minimum qualifying criteria on a competitive basis, or to applicants on a noncompetitive basis, or both. Within each category of activity described in subsection (2) of this section, the department must prioritize grant applications that benefit overburdened communities as defined in RCW 70A.02.010 as identified by the department in accordance with RCW 70A.02.050.

NEW SECTION. **Sec.**  A new section is added to chapter 70A.207 RCW to read as follows:

SUSTAINABLE FOOD MANAGEMENT POLICY IMPLEMENTATION GRANTS.

(1) The department, through the center, must develop and administer grant programs to support the implementation of the requirements of this act and chapter 180, Laws of 2022, with priority given to grants that support the implementation of RCW 70A.205.540 and 70A.205.545. Eligible recipients of grants under this section may include businesses that are subject to organic material management requirements, local governments, federally recognized Indian tribes and federally recognized Indian tribal government entities, nonprofit organizations, or organic material management facilities. Eligible expenses by grant recipients include education, outreach, technical assistance, indoor and outdoor infrastructure, transportation and processing infrastructure, and enforcement costs.

(2) The department may not require, as a condition of financial assistance under this section, that matching funds be made available by a local government recipient. The department must provide assistance to each local government that demonstrates eligibility for grant assistance under this section.

**Sec.**  RCW 70A.207.020 and 2022 c 180 s 402 are each amended to read as follows:

CENTER FOR SUSTAINABLE FOOD MANAGEMENT DUTIES.

(1) The Washington center for sustainable food management is established within the department((~~, to begin operations by January 1, 2024~~)).

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

(3) The center may perform the following activities:

(a) Coordinate the implementation of the plan;

(b) Draft plan updates and measure progress towards actions, strategies, and the statewide goals established in RCW 70A.205.007 and 70A.205.715(1);

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

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

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

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

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

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

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

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

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

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

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

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

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

(l) Distribute and monitor grants dedicated to food waste prevention, rescue, and recovery, which must include the programs described in sections 201 and 202 of this act; ((~~and~~))

(m) Provide staff support to the work group created in section 702 of this act; and

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

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

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

NEW SECTION. **Sec.**  A new section is added to chapter 43.23 RCW to read as follows:

WASHINGTON COMMODITIES DONATION GRANT PROGRAM.

(1) The department must implement the Washington commodities donation grant program established in this section. The purpose of the program is to procure Washington grown produce, grains, and protein otherwise at risk of ending up as food waste for distribution to hunger relief organizations for use in Washington state.

(2) The program established in this section must, to the extent practicable:

(a) Rely upon existing infrastructure and similar grant programs currently being implemented in Washington, in order to maximize the beneficial impacts of the program in the short-term, and to expeditiously enable the distribution of grants under this section;

(b) Be designed to achieve efficiencies of scale by the grant recipients carrying out food acquisitions and distributions and to target large volume food acquisition opportunities;

(c) Give priority to recipient organizations that have at least five years of experience coordinating the collection and transportation of donated agricultural products to food bank distributors, food bank distribution centers, or both, for redistribution to local hunger relief agencies; and

(d) Provide for equitable benefits experienced from the program by food producers of varying sizes and types, including minority and vulnerable farmers, including veterans, women, and federally recognized Indian tribes.

(3) The department must issue grants under this section to one or more nonprofit organizations to acquire food directly from food producers located in Washington. A recipient nonprofit organization may use funds under this section to compensate food producers donating commodities for pick and pack out costs incurred associated with the production of a food product, including costs of food product inputs and harvest, and for their marginal postharvest logistical and administrative costs that facilitate the acquisition and distribution of the food product by grant recipients.

(4) An organization that receives funds under this section must report the results of the project to the department in a manner prescribed by the department.

**Sec.**  RCW 70A.214.100 and 2008 c 178 s 1 are each amended to read as follows:

WASTE NOT WASHINGTON AWARDS.

(1) The office of waste reduction shall develop, in consultation with the superintendent of public instruction, an awards program to achieve waste reduction and recycling in public schools, and to encourage waste reduction and recycling in private schools, grades kindergarten through high school. The office shall develop guidelines for program development and implementation. Each public school shall, and each private school may, implement a waste reduction and recycling program conforming to guidelines developed by the office.

(2) For the purpose of granting awards, the office may group all participating schools into not more than three classes, based upon student population, distance to markets for recyclable materials, and other criteria, as deemed appropriate by the office. Except as otherwise provided, five or more awards may be granted to each of the three classes. Each award shall be no more than ((~~five thousand dollars~~)) $5,000 until 2026, and no more than $10,000 beginning January 1, 2026. Awards shall be granted each year to the schools that achieve the greatest levels of waste reduction and recycling. A single award of not less than ((~~five thousand dollars~~)) $5,000 until 2026 or $10,000 beginning in 2026 may be presented to the school having the best recycling program as measured by the total amount of materials recycled, including materials generated outside of the school. A single award of not less than ((~~five thousand dollars~~)) $5,000 until 2026 or $10,000 beginning in 2026 may be presented to the school having the best waste reduction program as determined by the office.

(3) The superintendent of public instruction shall distribute guidelines and other materials developed by the office to implement programs to reduce and recycle waste generated in administrative offices, classrooms, laboratories, cafeterias, and maintenance operations.

**PART 3**

**AMENDMENTS TO SOLID WASTE LAWS**

**Sec.**  RCW 70A.205.540 and 2022 c 180 s 102 are each amended to read as follows:

MANDATED ORGANICS MANAGEMENT.

(1) ((~~Beginning January 1, 2027, in~~)) Except as provided in subsection (3) of this section, in each jurisdiction that implements a local solid waste plan under RCW 70A.205.040:

(a) ((~~Source-separated~~)) Beginning April 1, 2027, source-separated organic solid waste collection services ((~~must~~)) are required to be provided ((~~at least every other week or at least 26 weeks annually~~)) year-round to:

(i) All single-family residents; and

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

(b)(i) The department may, by waiver, reduce the collection frequency requirements in (a) of this subsection for the collection of dehydrated food waste or to address food waste managed through other circumstances or technologies that will reduce the volume or odor, or both, of collected food waste.

(ii) All organic solid waste collected from single-family residents and businesses under ((~~(a) of~~)) this subsection must be managed through organic materials management;

(c) Beginning April 1, 2030, the source-separated organic solid waste collection services specified in (a) of this subsection must be provided to customers on a nonelective basis, except that a jurisdiction may grant an exemption to a customer that certifies to the jurisdiction that the customer is managing organic material waste on-site or self-hauling its own organic material waste for organic materials management;

(d) Beginning April 1, 2030, each jurisdiction's source-separated organic solid waste collection service must include the acceptance of food waste year-round. The jurisdiction may choose to collect food waste source-separated from other organic materials or may collect food waste commingled with other organic materials; and

(e) Beginning April 1, 2030, all persons, when using curbside collection for disposal, may use only source-separated organic solid waste collection services to discard unwanted organic materials. By January 1, 2027, the department must develop guidance under which local jurisdictions may exempt persons from this requirement if organic materials will be managed through an alternative mechanism that provides equal or better environmental outcomes. Nothing in this section precludes the ability of a person to use on-site composting, the diversion of organic materials to animal feed, self-haul organic materials to a facility, or other means of beneficially managing unwanted organic materials. For the purposes of this subsection (1)(e), "person" or "persons" does not include multifamily residences.

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

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

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

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

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

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

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

(ii) In census tracts that have a population density of greater than 75 people per square mile, where the census tract includes jurisdictions that meet any of the conditions in (a)(i) and (ii) of this subsection, that are serviced by the jurisdiction and located in unincorporated portions of a county, as determined by the department, in counties not planning under chapter 36.70A RCW;

(iii) Outside of urban growth areas designated pursuant to RCW 36.70A.110 in unincorporated portions of a county planning under chapter 36.70A RCW;

(iv) Inside of unincorporated urban growth areas for jurisdictions planning under chapter 36.70A RCW that meet any of the conditions in (a)(i) and (ii) of this subsection; and

(v) In unincorporated urban growth areas in counties with an unincorporated population of less than 25,000 people.

(c) ((~~In addition to the exemptions in (a) and (b)~~)) A jurisdiction that collects organic materials, but that does not collect organic materials on a year-round basis as of January 1, 2024, is not required to provide year-round organic solid waste collection services if it provides those services at least 26 weeks annually.

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

((~~(d)~~)) (e) Beginning January 1, 2030, the department may adopt a rule to require that the provisions of this section apply in the jurisdictions identified in (b) ((~~and (c)~~)) through (d) of this subsection, but only if the department determines that the goals established in RCW 70A.205.007(1) have not or will not be achieved.

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

(5) Nothing in this section affects the authority or duties of the department of agriculture related to pest and noxious weed control and quarantine measures under chapter 17.24 RCW.

(6) No penalty may be assessed on an individual or resident for the improper disposal of organic materials under subsection (1) of this section in a noncommercial or residential setting.

(7) The department must adopt new rules or amend existing rules adopted under this chapter establishing permit requirements for organic materials management facilities requiring a solid waste handling permit addressing contamination associated with incoming food waste feedstocks and finished products, for environmental benefit.

**Sec.**  RCW 70A.205.545 and 2022 c 180 s 201 are each amended to read as follows:

BUSINESS DIVERSION.

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

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

(ii) Are serviced by solid waste facilities that provide for the organic materials management of organic material waste and food waste and have year-round capacity to process and are willing to accept increased volumes of organic materials deliveries.

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

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

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

(ii)(A) In the event that a county or city provides a written ((~~notification~~)) request and supporting evidence to the department ((~~indicating~~)) determining that the criteria of (b)(i)(A) of this subsection are met, and the department confirms this determination, then the restrictions of this section apply only in those portions of the jurisdiction that have available service-providing businesses.

(B) In the event that a county or city provides a written ((~~notification~~)) request and supporting evidence to the department ((~~indicating~~)) determining that the criteria of (b)(i)(B) of this subsection are met, and the department confirms this determination, then the restrictions of this section do not apply to the jurisdiction.

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

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

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

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

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

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

(iii) Beginning January 1, 2026, a business that generates at least ((~~four cubic yards of solid~~)) 96 gallons of organic material waste per week shall arrange for organic materials management services specifically for organic material waste, unless the department determines, by rule, that additional reductions in the landfilling of organic materials would be more appropriately and effectively achieved, at reasonable cost to regulated businesses, through the establishment of a different volumetric threshold of ((~~solid waste or~~)) organic waste material ((~~waste~~)) than the threshold of ((~~four cubic yards of solid~~)) 96 gallons of organic material waste per week.

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

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

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

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

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

(v) Wastes generated as a result of a food safety event, such as a product recall, that is due to foreign material or adverse biological activity that requires landfill destruction rather than organic material management.

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

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

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

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

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

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

(b) Nothing in this section requires a business to dispose of materials in a manner that conflicts with federal or state public health or safety requirements. Nothing in this section requires businesses to dispose of wastes generated in exceptional volumes as a result of a natural disaster or other infrequent and unpreventable event through the options established in subsection (3) of this section. Nothing in this section prohibits a business from disposing of nonfood organic materials that are not commingled with food waste by using the services of an organic materials management facility that does not accept food waste.

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

(6)(a) This section does not limit the authority of a local governmental agency to adopt, implement, or enforce a local organic material waste recycling requirement, or a condition imposed upon a self-hauler, that is more stringent or comprehensive than the requirements of this chapter.

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

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

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

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

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

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

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

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

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

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

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

**PART 4**

**STATUS ASSESSMENT OF PRODUCE STICKER TECHNOLOGIES**

NEW SECTION. **Sec.**  STATUS ASSESSMENT OF PRODUCE STICKER TECHNOLOGIES. (1) The department of ecology, in consultation with the department of agriculture, must carry out a study and submit a brief summary report to the legislature by September 1, 2025, addressing the status of produce sticker technologies, including produce sticker options that do not contain plastic stickers or adhesives or that otherwise meet compostability standards.

(2) The study required under this section must, at minimum, compare and consider the following features of produce stickers and adhesives:

(a) Compostability, including toxic or hazardous substance content;

(b) Performance;

(c) Printability; and

(d) Cost.

(3) In carrying out the study, input and information must be solicited and evaluated from:

(a) Produce producers and packers;

(b) Sticker and adhesive producers;

(c) Other states, countries, or subnational jurisdictions that have adopted standards restricting plastic produce stickers; and

(d) Other technical experts.

**PART 5**

**PRODUCT DEGRADABILITY RESTRICTIONS**

**Sec.**  RCW 70A.455.040 and 2022 c 180 s 803 are each amended to read as follows:

FIBER-BASED SUBSTRATES. (1) A product labeled as "compostable" that is sold, offered for sale, or distributed for use in Washington by a producer must meet at least one of the following equivalent standard specifications:

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

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

(c) ASTM standard specification D8410;

(d) ISO standard specification 17088;

(e) EN standard specification 13432;

(f) A standard specification that is substantially similar to those provided in (a) through (e) of this subsection, as determined by the department; or

(g) Be comprised only of wood, which includes renewable wood, or a fiber-based substrate ((~~only~~)) that contains:

(i) Greater than 98 percent fiber by dry weight; and

(ii) No plastic, plastic polymer or wax additives, or plastic or wax coatings.

(2) A product described in subsection (1)(a) ((~~or (b)~~)) through (f) of this section must:

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

(b) Feature labeling that:

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

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

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

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

**Sec.**  RCW 70A.455.070 and 2022 c 180 s 806 are each amended to read as follows:

FILM TINTING.

(1) A producer of plastic film bags sold, offered for sale, or distributed for use in Washington that does not meet the applicable ASTM standard specifications provided in RCW 70A.455.050 is:

(a) Prohibited from using tinting, color schemes, labeling, or terms that are required of products that meet the applicable ASTM standard specifications under RCW 70A.455.050;

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

(c) Encouraged to use labeling, images, and terms to help consumers identify noncompostable bags as either: (i) Suitable for recycling; or (ii) necessary to dispose as waste.

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

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

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

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

(3) For the purposes of this section only:

(a) "Tinting" means the addition of color to a film, usually by means of dye or stain, that filters light and makes the film appear a certain color; and

(b)(i) The prohibition in subsection (1)(a) of this section on "color schemes" on plastic film bags does not preclude the use of:

(A) Green, brown, or beige stripes that are smaller than .25 inch wide and used as visual aids; and

(B) Green, brown, or beige lettering or logos that are used solely for brand identity purposes.

(ii) The prohibition in subsection (1)(a) of this section on color schemes on plastic film bags does prohibit the use of botanical motifs, such as leaves or vines that are colored green, brown, or beige, or any combination of these colors or shapes.

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

HOME COMPOSTABLE LABELING.

A producer may only label a product as being "home compostable" if:

(1) The product has been tested and meets ASTM standards D6400 or D6868 for industrial composting settings;

(2) A third-party certifier has verified that the product meets ASTM standards for industrial composting;

(3) The product is otherwise labeled in a manner consistent with the requirements of this chapter, including RCW 70A.455.030, 70A.455.040, or 70A.455.050, as appropriate;

(4) The product is not labeled "home compostable only" or in a manner that otherwise implies that the product is not capable of being composted in industrial compost settings; and

(5) The producer has valid and reproducible scientific evidence to support their claim that a product is home compostable, consistent with federal trade commission guidelines.

**Sec.**  RCW 70A.455.090 and 2022 c 180 s 808 are each amended to read as follows:

CONCURRENT ENFORCEMENT OF DEGRADABILITY LABELING REQUIREMENTS BY CITIES AND COUNTIES.

(1)(a) The department and cities and counties have concurrent authority to enforce this chapter and to issue and collect civil penalties for a violation of this chapter, subject to the conditions in this section and RCW 70A.455.100. An enforcing government entity may impose a civil penalty in the amount of up to $2,000 for the first violation of this chapter, up to $5,000 for the second violation of this chapter, and up to $10,000 for the third and any subsequent violation of this chapter. If a producer has paid a prior penalty for the same violation to a different government entity with enforcement authority under this subsection, the penalty imposed by a government entity is reduced by the amount of the payment.

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

(c) A city or county that chooses to enforce the requirements of this chapter within their jurisdiction must notify the department with a letter of intent that includes:

(i) The start and any end date of the local jurisdiction's enforcement activities;

(ii) The geographic boundaries within which the enforcement activities are planned; and

(iii) Any technical assistance, education, or enforcement tools that the city or county would like to request from the department in support of local enforcement activities.

(2) Penalties issued by the department are appealable to the pollution control hearings board established in chapter 43.21B RCW.

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

(4) In addition to penalties recovered under this section, the enforcing city or county may recover reasonable enforcement costs and attorneys' fees from the liable producer.

**PART 6**

**COMPOST PURCHASES**

**Sec.**  RCW 15.04.420 and 2022 c 180 s 502 are each amended to read as follows:

COMPOST REIMBURSEMENT PROGRAM ELIGIBILITY AMENDMENT.

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

(b) For the purposes of this program, "farming operation" means: A commercial agricultural, silvicultural, or aquacultural facility or pursuit, including the care and production of livestock and livestock products, poultry and poultry products, apiary products, and plant and animal production for nonfood uses; the planting, cultivating, harvesting, and processing of crops; and the farming or ranching of any plant or animal species in a controlled salt, brackish, or freshwater environment.

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

(3) The department must create a form for eligible farming operations to apply for cost reimbursement for costs from purchasing and using compost from facilities with solid waste handling permits or that are permit exempt, including transportation, equipment, spreading, and labor costs. Compost must meet the applicable requirements for compost established by the department of ecology under chapter 70A.205 RCW. The department must prioritize applicants who purchase and use compost containing food waste feedstocks, where it is practicable for the applicant to purchase and use compost containing food waste feedstocks. All applications for cost reimbursement must be submitted on the form along with invoices, receipts, or other documentation acceptable to the department of the costs of purchasing and using compost products for which the applicant is requesting reimbursement, as well as a brief description of what each purchased item will be used for. The department may request that an applicant provide information to verify the source, size, sale weight, or amount of compost products purchased and the cost of transportation, equipment, spreading, and labor. The applicant must also declare that it is not seeking reimbursement for purchase or labor costs for:

(a) Its own compost products; or

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

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

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

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

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

(c) ((~~A farming operation is not eligible to receive more than $10,000 per fiscal year~~)) The department must attempt to achieve fair distribution of reimbursement funding across different farm size categories, based on acreage categories determined by the department, and which is not to exceed a maximum of $20,000 per fiscal year for the largest farming operation category determined by the department;

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

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

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

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

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

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

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

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

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

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

**Sec.**  RCW 43.19A.150 and 2022 c 180 s 701 are each amended to read as follows:

COMPOST PROCUREMENT REPORTING AMENDMENT.

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

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

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

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

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

(a) Landscaping projects;

(b) Construction and postconstruction soil amendments;

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

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

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

(5) By ((~~December~~)) March 31, ((~~2024~~)) 2025, and each ((~~December~~)) March 31st ((~~of even-numbered years~~)) thereafter, each city or county that adopts an ordinance under subsection (1) or (2) of this section must submit a report covering the previous year's compost procurement activities to the department of ecology that contains the following information:

(a) The total tons of organic material diverted throughout the year and the facility or facilities used for processing;

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

(c) The source or sources of the compost.

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

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

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

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

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

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

**PART 7**

**MISCELLANEOUS**

NEW SECTION. **Sec.**  A new section is added to chapter 19.27 RCW to read as follows:

STATE BUILDING CODE COUNCIL AMENDMENT.

The governing body of each county or city is authorized to amend requirements in the state building code, as it applies within the jurisdiction of the county or city, that apply to providing for the storage of solid waste by requiring multifamily residential buildings to:

(1) Provide adequate space for the colocation of organic material waste and recycling collection containers with garbage containers, or in the absence of colocation, requiring the posting of signage notifying residents of where organic material waste and recycling containers are located;

(2) Identify organic material waste collection containers with appropriate and accurate signage and color to differentiate between organic material waste, recycling, and garbage collection containers; and

(3) Distribute annual waste sorting educational materials to all residents.

NEW SECTION. **Sec.**  WORK GROUP TO STUDY FOOD DONATION BY BUSINESSES. (1) The department of ecology's center for sustainable food management created in chapter 70A.207 RCW must convene a work group to address mechanisms to improve the rescue of edible food waste from commercial generators, including food service, retail establishments, and processors that generate excess supply of edible food. The work group must consider:

(a) Logistics to phase in edible food donation programs, including incentives;

(b) The food recovery network systems necessary to support increased donation of edible food by commercial generators;

(c) Assess asset gaps and food infrastructure development needs. The work group must also facilitate the creation of networks and partnerships to address gaps and needs and develop innovative partnerships and models where appropriate; and

(d) Actions taken, costs, and lessons learned by other jurisdictions in the United States that have enacted policies focused on reducing edible commercially generated food waste and from voluntary pilot projects carried out by commercial generators of food waste.

(2) The department of ecology must submit a report to the legislature by September 1, 2025, containing the recommendations of the work group. The work group shall make recommendations using consensus-based decision making. All meetings of the work group must be carried out in a virtual-only format. The report must include recommendations where general stakeholder consensus has been achieved and note varied opinions where stakeholder consensus has not been achieved.

(3) The department of ecology must select at least one member to the work group from each of the following:

(a) Cities, including both small and large cities and cities located in urban and rural counties, which may be represented by an association that represents cities in Washington;

(b) Counties, including both small and large counties and urban and rural counties, which may be represented by an association that represents county solid waste managers in Washington;

(c) An environmental nonprofit organization that specializes in waste and recycling issues;

(d) A statewide organization representing hospitality businesses;

(e) A retail grocery association;

(f) The department of ecology;

(g) Two different nonprofit organizations that specialize in food recovery and hunger issues;

(h) Three different hunger relief organizations that represent diverse needs from throughout the state;

(i) The department of agriculture;

(j) The office of the superintendent of public instruction;

(k) The department of health;

(l) One large and one small food distribution company;

(m) An organization representing food processors;

(n) An organization representing food producers;

(o) A technology company currently focused on food rescue in Washington; and

(p) Two open seats for appointed members of the work group to nominate for department of ecology appointment if gaps in membership are identified.

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

NEW SECTION. **Sec.**  If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2024, in the omnibus appropriations act, this act is null and void."

**E2SHB 2301** - S COMM AMD

By Committee on Ways & Means

**ADOPTED AS AMENDED 03/01/2024**

On page 1, line 3 of the title, after "systems;" strike the remainder of the title and insert "amending RCW 70A.207.020, 70A.214.100, 70A.205.540, 70A.205.545, 70A.455.040, 70A.455.070, 70A.455.090, 15.04.420, and 43.19A.150; adding new sections to chapter 70A.207 RCW; adding a new section to chapter 43.23 RCW; adding a new section to chapter 70A.455 RCW; adding a new section to chapter 19.27 RCW; and creating new sections."

EFFECT: (1) Requires the department of ecology (ecology) to develop guidance (rather than adopt standards) under which local jurisdictions may exempt persons from the requirement to only use source-separated organic solid waste collection services to discard unwanted organic materials when the organic materials will be managed through an alternative mechanism providing equal or better environmental outcomes.

(2) Requires the year-round organic solid waste collection services be provided to single-family residents rather than all residents.

(3) Provides that a jurisdiction that collects organic materials, but that does not collect such materials year-round as of January 1, 2024, is not required to provide year-round services if it provides those services at least 26 weeks annually.

(4) Directs ecology to adopt new, or amend existing, rules to address contamination associated with incoming food waste feedstocks and finished products.

(5) Removes provisions establishing collection container color-coding and labeling requirements.

(6) Includes additional standard specifications a product may meet to be labeled as compostable and entered into Washington commerce.

(7) Provides that a compostable product comprised only of wood must contain: (a) Greater than 98 percent fiber by dry weight rather than 99 percent; and (b) no plastic, plastic polymer or wax additives, or plastic or wax coatings rather than those items in addition to adhesives not meeting ASTM standard specification D6868.

(8) Makes other technical changes relating to labeling products with the new standard specifications, as applicable.