

**2SHB 1131 - H AMD 339**

By Representative Fey

1 Strike everything after the enacting clause and insert the  
2 following:

3 "PART 1

4 **TRUTH IN LABELING, RATES STUDY, AND NEEDS ASSESSMENT**

5 NEW SECTION. **Sec. 101.** TRUTH IN LABELING. (1) Beginning January  
6 1, 2027, a producer may not offer for sale, sell, or distribute in or  
7 into Washington, including by means of remote sale, any covered  
8 product that makes a deceptive or misleading claim about its  
9 recyclability.

10 (a) A product or packaging that displays a chasing arrows symbol,  
11 a chasing arrows symbol surrounding a resin identification code, or  
12 any other symbol or statement indicating that it is recyclable or  
13 otherwise directing the consumer to recycle the product or packaging,  
14 is deemed to be a deceptive or misleading claim under this section  
15 unless the product or packaging is considered recyclable in the state  
16 under section 103 of this act and is of a material type and form that  
17 routinely becomes feedstock used in the production of new products or  
18 packaging or is exempt under (b) of this subsection.

19 (b) (a) of this subsection does not apply to products or  
20 packaging:

21 (i) For which a symbol or statement described in (a) of this  
22 subsection is required by another state or by a federal law or agency  
23 in the United States at the time that the claim is made;

24 (ii) For which a symbol or statement described in (a) of this  
25 subsection is part of a widely adopted and standardized third-party  
26 labeling system;

27 (iii) For which a chasing arrows symbol is used in combination  
28 with a clearly visible line placed at a 45-degree angle over the  
29 chasing arrows symbol to convey that an item is not recyclable;

30 (iv) Manufactured up to 18 months after the date the department  
31 publishes the first material characterization study required under

1 section 102 of this act, or before January 1, 2027, whichever is  
2 later; or

3 (v) Any product or packaging manufactured up to 18 months after  
4 the date the department updates the material characterization study  
5 under section 102 of this act, if the product or packaging satisfied  
6 or, for a new product or packaging, would have satisfied, the  
7 requirements to be considered recyclable in the state under section  
8 103 of this act before the publication of the updated study.

9 (c) For a product or packaging that is not considered to be  
10 recyclable in the state under section 103 of this act, all the  
11 following apply:

12 (i) Displaying a chasing arrows symbol or any other statement  
13 indicating the product is recyclable directly on the product is  
14 deemed to be deceptive or misleading under this section;

15 (ii) If a product or packaging has multiple material types, a  
16 chasing arrows symbol or statement indicating recyclability may be  
17 displayed on the external packaging that is considered to be  
18 recyclable in the state under section 103 of this act if the chasing  
19 arrows symbol or statement makes clear in the same or greater font,  
20 font size, or symbol size which other components of the product or  
21 packaging are not recyclable; and

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

26 (2) At such time as an enforceable federal statutory or  
27 regulatory standard is implemented for labeling packaging related to  
28 recyclability, within 180 days the department shall review criteria  
29 under this chapter with federal standards or requirements. Upon  
30 completing its review, the department may adopt the federal criteria  
31 in lieu of the requirements of this section.

32 (3) As of the effective date of this section, a city, town, or  
33 county may not enact an ordinance restricting the distribution or  
34 sale of covered products due to displaying a chasing arrows symbol, a  
35 chasing arrows symbol surrounding a resin identification code, or any  
36 other symbol or statement indicating that it is recyclable if the  
37 covered product is, at the time that the claim is made:

38 (a) Required to display the symbol or statement by another state  
39 or by a federal law or agency;

1 (b) Part of a widely adopted and standardized third-party  
2 labeling system:

3 (i) For which a symbol or statement described in subsection (1)  
4 (a) of this section is in compliance with the federal trade  
5 commission green guides; or

6 (ii) For which a symbol or statement described in subsection  
7 (1)(a) of this section incorporates by reference the ASTM standards  
8 for coding resin; or

9 (c) Using a chasing arrows symbol in combination with a clearly  
10 visible line placed at a 45-degree angle over the chasing arrows  
11 symbol to convey that an item is not recyclable.

12 (4) The definitions in this subsection apply throughout this  
13 section unless the context clearly requires otherwise.

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

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

22 (b) "Consumable product" means a commodity that is intended to be  
23 used and not disposed of.

24 (c) "Packaging" is to be broadly construed and includes secondary  
25 and tertiary packaging and may be comprised of any material type.

26 NEW SECTION. **Sec. 102.** MATERIAL CHARACTERIZATION STUDY. (1) By  
27 January 1, 2026, the department shall produce a material  
28 characterization study to provide information to the public  
29 sufficient for evaluating whether a product or packaging is  
30 recyclable in the state according to the criteria set forth in  
31 section 103 of this act and are of material types and forms that  
32 routinely become feedstock used in the production of new products or  
33 packaging.

34 (a) The department shall conduct and publish on its website a  
35 characterization study of material types and forms that are  
36 collected, sorted, sold, or transferred by facilities that process  
37 recyclable materials from curbside recycling programs and other solid  
38 waste facilities deemed appropriate by the department for inclusion  
39 in the study.

1 (b) The material characterization study must:

2 (i) Use data from statistically valid and representative samples  
3 of materials collected from curbside recycling programs in the state  
4 analyzed using industry standard methodologies;

5 (ii) Identify what material types and forms are actively sorted  
6 for recycling, and not considered contaminants, by included  
7 operations or facilities;

8 (iii) Identify what material types and forms are not sorted for  
9 recycling, and are considered contaminants, by included operations or  
10 facilities; and

11 (iv) Identify how the material collected or processed by the  
12 operations and facilities was collected.

13 (2) The department shall update the material characterization  
14 study required under this section no less often than every five  
15 years, with the first update being issued by the department in 2029.

16 (3) For each material characterization study conducted under this  
17 section, the department shall publish on its website the preliminary  
18 findings of the study and conduct a public meeting to present the  
19 preliminary findings and receive public comments. The public meeting  
20 must occur at least 30 days after the department publishes the  
21 preliminary findings. After receiving and considering public  
22 comments, and within 90 days of the public meeting, the department  
23 shall finalize and publish on its website the findings of the study.

24 (4) The department may publish additional information that was  
25 not available at the time of the most recent periodic material  
26 characterization study regarding the appropriate characterization of  
27 material types and forms.

28 NEW SECTION. **Sec. 103.** RECYCLABILITY DETERMINATIONS. (1)(a) A

29 product or packaging is considered recyclable in the state if, based  
30 on information published by the department under section 102 of this  
31 act, the product or packaging is of a material type and form that  
32 meets both of the following requirements:

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

36 (ii) The material type and form are sorted into defined streams  
37 for recycling processes by large volume transfer or processing  
38 facilities, as provided in chapter 70A.205 RCW, that process  
39 materials and collectively serve at least 60 percent of recycling

1 programs statewide, with the defined streams sent to and reclaimed at  
2 a reclaiming facility consistent with the requirements of chapter  
3 70A.205 RCW.

4 (b) The department may adopt rules modifying the requirement to  
5 encompass transfer or processing facilities other than large volume  
6 transfer or processing facilities as the department deems appropriate  
7 for achieving the purposes of this section.

8 (2) A product or packaging is not considered recyclable in the  
9 state unless the product or packaging meets all the following  
10 criteria, as applicable:

11 (a) For plastic packaging, the plastic packaging is designed to  
12 not include any components, inks, adhesives, or labels that prevent  
13 the recyclability of the packaging according to the association of  
14 plastic recyclers design guide published by the association of  
15 plastic recyclers; and

16 (b) For plastic products and nonplastic products and packaging,  
17 the product or packaging is designed to ensure recyclability and does  
18 not include any components, inks, adhesives, or labels that prevent  
19 the recyclability of the product or packaging.

20 (3) A product or packaging is recyclable in the state if the  
21 product or packaging has a demonstrated recycling rate of at least 75  
22 percent, meaning that not less than 75 percent of the product or  
23 packaging sorted and aggregated in the state is reprocessed into new  
24 products or packaging.

25 (4) Before January 1, 2032, a product or packaging not collected  
26 under a curbside collection program is recyclable in the state if the  
27 noncurbside collection program recovers at least 60 percent of the  
28 product or packaging in the program and the material has sufficient  
29 commercial value to be marketed for recycling and be transported at  
30 the end of its useful life to a transfer, processing, or recycling  
31 facility to be sorted and aggregated into defined streams by material  
32 type and form.

33 (5) After January 1, 2032, a product or packaging not collected  
34 under a curbside collection program is recyclable in the state if the  
35 noncurbside collection program recovers at least 75 percent of the  
36 product or packaging in the program and the material has sufficient  
37 commercial value to be marketed for recycling and be transported at  
38 the end of its useful life to a transfer, processing, or recycling  
39 facility to be sorted and aggregated into defined streams by material  
40 type and form.

1 (6) A product or packaging is recyclable in the state if the  
2 product or packaging is part of, and in compliance with, a program  
3 established under state or federal law on or after January 1, 2025,  
4 governing the recyclability or disposal of that product or packaging  
5 if the director of the department determines that the product or  
6 packaging will not increase contamination of curbside recycling or  
7 deceive consumers as to the recyclability of the product or  
8 packaging.

9 (7) The information published by the department under section 102  
10 of this act does not limit the discretion of a local government under  
11 existing law to decide whether, and to what extent, a material type  
12 or form is accepted by a local recycling program.

13 NEW SECTION. **Sec. 104.** (1) To inform the future development of  
14 strategies to increase recovery rates, the department must conduct a  
15 performance rates study and a statewide needs assessment that must be  
16 carried out by a third-party consultant selected by the department.

17 (2) (a) The performance rates study must be completed by September  
18 1, 2024, and must:

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

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

24 (iii) Recommend performance rates, including:

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

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

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

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

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

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

4 (3) The statewide needs assessment must be completed by July 1,  
5 2025, and must be consistent with the following requirements:

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

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

12 (4) The statewide needs assessment must be:

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

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

18 (5) The statewide needs assessment must:

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

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

24 (ii) Education and outreach activities;

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

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

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

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

37 (b) Compile information related to actual costs incurred by  
38 government entities for curbside collection services, drop-off  
39 collection services, and other information relevant to the funding  
40 requirements to achieve performance rates, including costs for

1 various service methods recommended by stakeholders during the study  
2 scoping process;

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

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

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

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

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

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

18 (vi) Cost increases over time; and

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

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

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

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

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

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



- 1 (i) Include meaningful consultation with overburdened communities  
2 and vulnerable populations;
- 3 (ii) Determine conditions and make recommendations including, at  
4 minimum:
- 5 (A) The availability of opportunities in the recycling system for  
6 women and minority individuals;
- 7 (B) The sufficiency of local government requirements related to  
8 multifamily recycling services and their implementation;
- 9 (C) Identification of activities that disproportionately impact  
10 any community and in particular overburdened communities and  
11 vulnerable populations;
- 12 (D) The sufficiency of recycling education and outreach programs  
13 relative to desired socially just management outcomes;
- 14 (E) Recommendations for improving socially just management  
15 practices and outcomes in the state's recycling system; and
- 16 (F) Evaluate the extent to which covered products contribute to  
17 litter and marine debris. The assessment should draw on available  
18 data, assess gaps, and identify strategies for improving prevention  
19 and cleanup of litter and marine debris from covered products; and
- 20 (g) Compile information from available data sources on the  
21 presence of toxic substances in covered products and their potential  
22 impacts on reuse, recycling, and composting systems. The information  
23 compiled is intended to inform the development of ecomodulation  
24 factors that incentivize the reduction of toxic substances that have  
25 potentially negative impacts when covered products are managed  
26 through reuse, recycling, and composting systems.

27 **PART 2**

28 **ESTABLISHING POSTCONSUMER RECYCLED CONTENT**

29 **REQUIREMENTS**

30 NEW SECTION. **Sec. 201.** DE MINIMIS PRODUCERS. (1) For purposes  
31 of determining whether a producer is a de minimis producer, the  
32 weight and revenue definitional thresholds must be calculated at the  
33 level of the entity associated with the covered product.

34 (2) The exemptions under this chapter for de minimis producers do  
35 not apply to an entity that has agreed to accept responsibility for  
36 compliance with the requirements of this chapter for a covered  
37 product on the behalf of another producer.

1 (3) (a) De minimis producers are not required to meet annual  
2 registration, reporting, postconsumer recycled content, or fee  
3 requirements of covered products under this chapter.

4 (b) De minimis producers must annually notify the department, in  
5 a form and manner specified by the department, to demonstrate that  
6 the producer is a de minimis producer.

7 (4) The department may require that a producer submit information  
8 necessary to verify whether a producer qualifies for de minimis  
9 status, including:

10 (a) Annual global gross revenue dollar amount less than or equal  
11 to \$5,000,000;

12 (b) Annual total resin weight less than or equal to one ton; and

13 (c) Any additional information requested by the department.

14 NEW SECTION. **Sec. 202.** POSTCONSUMER RECYCLED CONTENT  
15 REQUIREMENTS FOR PLASTIC BEVERAGE CONTAINERS. A producer of a  
16 beverage in a plastic beverage container must meet the following  
17 annual minimum postconsumer recycled content percentage on average  
18 for the total quantity of plastic beverage containers, by weight,  
19 that are sold, offered for sale, or distributed in or into Washington  
20 by the producer effective:

21 (1) For beverages except wine in 187 milliliter plastic beverage  
22 containers and dairy milk:

23 (a) January 1, 2023, through December 31, 2025: No less than 15  
24 percent postconsumer recycled content plastic by weight;

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

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

29 (2) For wine in 187 milliliter plastic beverage containers and  
30 dairy milk:

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

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

35 (c) On and after January 1, 2036: No less than 50 percent  
36 postconsumer recycled content plastic by weight.

37 NEW SECTION. **Sec. 203.** POSTCONSUMER RECYCLED CONTENT  
38 REQUIREMENTS FOR HOUSEHOLD CLEANING PRODUCTS AND PERSONAL CARE

1 PRODUCTS. A producer of household cleaning products in plastic  
2 containers or a producer of personal care products in plastic  
3 containers must meet the following annual minimum postconsumer  
4 recycled content percentage on average for the total quantity of  
5 plastic containers, by weight, that are sold, offered for sale, or  
6 distributed in or into Washington by the producer effective:

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

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

11 (3) On and after January 1, 2031: No less than 50 percent  
12 postconsumer recycled content plastic by weight.

13 NEW SECTION. **Sec. 204.** POSTCONSUMER RECYCLED CONTENT FOR  
14 PLASTIC TRASH BAGS. A producer of plastic trash bags must meet the  
15 following annual minimum postconsumer recycled content percentage on  
16 average for the total quantity of plastic trash bags, by weight, that  
17 are sold, offered for sale, or distributed in or into Washington by  
18 the producer effective:

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

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

23 (3) On and after January 1, 2027: No less than 20 percent  
24 postconsumer recycled content plastic by weight.

25 NEW SECTION. **Sec. 205.** POSTCONSUMER RECYCLED CONTENT FOR  
26 PLASTIC TUBS USED FOR FOOD PRODUCTS. A producer of plastic tubs used  
27 for food products must meet the following annual minimum postconsumer  
28 recycled content percentage on average for the total quantity of  
29 plastic tubs used for food products, by weight, that are sold,  
30 offered for sale, or distributed in or into Washington by the  
31 producer effective:

32 (1) January 1, 2031, through December 31, 2035: No less than 10  
33 percent postconsumer recycled content plastic by weight; and

34 (2) On and after January 1, 2036: No less than 30 percent  
35 postconsumer recycled content plastic by weight.

36 NEW SECTION. **Sec. 206.** POSTCONSUMER RECYCLED CONTENT FOR  
37 SINGLE-USE PLASTIC CUPS. A producer of single-use plastic cups must

1 meet the following annual minimum postconsumer recycled content  
2 percentage on average for the total quantity of single-use plastic  
3 cups, by weight, that are sold, offered for sale, or distributed in  
4 or into Washington by the producer effective:

5 (1) For polypropylene single-use plastic cups:

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

8 (b) On and after January 1, 2036: No less than 25 percent  
9 postconsumer recycled content plastic by weight;

10 (2) For polyethylene terephthalate, polystyrene, and other types  
11 of single-use plastic cups:

12 (a) January 1, 2031, through December 31, 2035: No less than 20  
13 percent postconsumer recycled content plastic by weight; and

14 (b) On and after January 1, 2036: No less than 30 percent  
15 postconsumer recycled content plastic by weight.

16 NEW SECTION. **Sec. 207.** POSTCONSUMER RECYCLED CONTENT FOR  
17 THERMOFORM PLASTIC CONTAINERS. A producer of a thermoform plastic  
18 container must meet the following annual minimum postconsumer  
19 recycled content percentage on average for the total quantity of  
20 thermoform plastic containers, by weight, that are sold, offered for  
21 sale, or distributed in or into Washington by the producer effective:

22 (1) For packaging for consumable goods:

23 (a) January 1, 2031, through December 31, 2035: No less than 10  
24 percent postconsumer recycled content plastic by weight; and

25 (b) On and after January 1, 2036: No less than 30 percent  
26 postconsumer recycled content plastic by weight;

27 (2)(a) Except as provided in (b) of this subsection, for  
28 packaging used for durable goods: On and after January 1, 2036, no  
29 less than 30 percent postconsumer recycled content plastic by weight;

30 (b) Packaging designed to accompany a durable good where that  
31 durable good model is designed prior to the effective date of the  
32 requirement in (a) of this subsection is exempt.

33 NEW SECTION. **Sec. 208.** (1) The department must ensure that any  
34 rules adopted pursuant to this chapter consider guidelines, and do  
35 not conflict with regulations, issued by the United States food and  
36 drug administration and the United States department of agriculture,  
37 and consider requirements imposed by other Washington state agencies  
38 including, but not limited to, the department of agriculture.

1 (2) The department may not impose any requirement including, but  
2 not limited to, a postconsumer recycled content requirement, in  
3 direct conflict with a federal law or regulation or the requirements  
4 necessary to comply with a federal law or regulation including, but  
5 not limited to: (a) Laws or regulations covering tamper-evident  
6 packaging pursuant to 21 C.F.R. Sec. 211.132; (b) laws or regulations  
7 covering child-resistant packaging pursuant to 16 C.F.R. Sec. 1700.1,  
8 et seq.; (c) regulations, rules, or guidelines issued by the United  
9 States department of agriculture or the United States food and drug  
10 administration related to packaging agricultural commodities; and (d)  
11 requirements for microbial contamination, structural integrity, or  
12 safety of packaging where no viable recyclable or compostable  
13 packaging that can meet the requirements exists, pursuant to: (i) The  
14 federal food, drug, and cosmetic act (21 U.S.C. Sec. 301, et seq.);  
15 (ii) 21 U.S.C. Sec. 2101, et seq.; (iii) The federal food and drug  
16 administration food safety modernization act (21 U.S.C. Sec. 2201, et  
17 seq.); (iv) the federal poultry products inspection act (21 U.S.C.  
18 Sec. 451, et seq.); (v) the federal meat inspection act (21 U.S.C.  
19 Sec. 601, et seq.); or (vi) the federal egg products inspection act  
20 (21 U.S.C. Sec. 1031, et seq.).

### 21 PART 3

#### 22 AMENDMENTS TO EXISTING POSTCONSUMER RECYCLED 23 CONTENT REQUIREMENTS

24 **Sec. 301.** RCW 70A.245.010 and 2021 c 313 s 2 are each amended to  
25 read as follows:

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

28 (1) ~~(a)~~ "Beverage" means ~~((beverages identified in (a) through (f)~~  
29 ~~of this subsection,))~~ liquid products intended for human or animal  
30 consumption, and in a quantity more than or equal to two fluid ounces  
31 and less than or equal to one gallon:

32 ~~((a))~~ (i) Water and flavored water;

33 ~~((b))~~ (ii) Beer or other malt beverages;

34 ~~((c))~~ (iii) Wine;

35 ~~((d))~~ (iv) Distilled spirits;

36 ~~((e))~~ (v) Mineral water, soda water, and similar carbonated  
37 soft drinks; ~~(and~~

1 ~~(f) Any beverage other than those specified in (a) through (e) of~~  
2 ~~this subsection, except)) (vi) Dairy milk; and~~  
3 (vii) Any other beverage identified by the department by rule.

4 (b) Beverage does not include infant formula as defined in 21  
5 U.S.C. Sec. 321(z), medical food as defined in 21 U.S.C. Sec.  
6 360ee(b)(3), or fortified oral nutritional supplements used for  
7 persons who require supplemental or sole source nutritional needs due  
8 to special dietary needs directly related to cancer, chronic kidney  
9 disease, diabetes, or other medical conditions as determined by the  
10 department.

11 (2) "Beverage manufacturing industry" means an association that  
12 represents beverage producers.

13 (3) "Condiment packaging" means packaging used to deliver single-  
14 serving condiments to customers. Condiment packaging includes, but is  
15 not limited to, single-serving packaging for ketchup, mustard,  
16 relish, mayonnaise, hot sauce, coffee creamer, salad dressing, jelly,  
17 jam, and soy sauce.

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

- 21 (i) Plastic trash bags;
- 22 (ii) Household cleaning ~~((and personal care products that use~~  
23 ~~plastic household cleaning and personal care product containers; and~~  
24 ~~(iii) Beverages that use plastic beverage containers))~~ products  
25 that use plastic household cleaning product containers;
- 26 (iii) Personal care products that use personal care product  
27 containers;
- 28 (iv) Beverages that use plastic beverage containers;
- 29 (v) Plastic tubs used for food products;
- 30 (vi) Thermoform plastic containers; and
- 31 (vii) Single-use plastic cups.

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

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

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

39 (7) "Expanded polystyrene" means blown polystyrene and expanded  
40 and extruded foams that are thermoplastic petrochemical materials

1 utilizing a styrene monomer and processed by any number of techniques  
2 including, but not limited to, fusion of polymer spheres (expandable  
3 bead polystyrene), injection molding, foam molding, and extrusion-  
4 blow molding (extruded foam polystyrene).

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

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

17 (10) ~~"Household cleaning ((and personal care product" means any~~  
18 ~~of the following:~~

19 ~~(a) Laundry detergents, softeners, and stain removers;~~

20 ~~(b) Household cleaning products;~~

21 ~~(c) Liquid soap;~~

22 ~~(d) Shampoo, conditioner, styling sprays and gels, and other hair~~  
23 ~~care products; or~~

24 ~~(e) Lotion, moisturizer, facial toner, and other skin care))~~  
25 products" means products labeled, marketed, or otherwise indicating  
26 that the purpose of the product is to clean, freshen, or remove  
27 unwanted substances, such as dirt, stains, and other impurities from  
28 objects, interior or exterior structures, vehicles, possessions, and  
29 environments associated with a household. These items include:

30 (a) Liquid soaps, laundry soaps, detergents, softeners, surface  
31 polishes, and stain removers;

32 (b) Textile cleaners, carpet and pet cleaners, and treatments; or

33 (c) Other products used to clean or freshen areas associated with  
34 a household.

35 (11) "Household cleaning and personal care product manufacturing  
36 industry" means an association that represents companies that  
37 manufacture household cleaning products and personal care products.

38 (12) "Licensee" means a manufacturer of a covered product or  
39 entity who licenses a brand and manufactures a covered product under  
40 that brand.

1 (13) "Oral nutritional supplement" means a manufactured liquid,  
2 powder capable of being reconstituted, or solid product that contains  
3 a combination of carbohydrates, proteins, fats, fiber, vitamins, and  
4 minerals intended to supplement a portion of a patient's nutrition  
5 intake.

6 (14)(a) "Plastic beverage container" means a bottle or other  
7 rigid container that is capable of maintaining its shape when empty,  
8 comprised solely of one or multiple plastic resins designed to  
9 contain a beverage. "Plastic beverage container" includes a  
10 container's cap or lid, beginning January 1, 2025.

11 (b) Plastic beverage container does not include:

12 ((~~a~~)) (i) Refillable beverage containers, such as containers  
13 that are sufficiently durable for multiple rotations of their  
14 original or similar purpose and are intended to function in a system  
15 of reuse;

16 ((~~b~~)) (ii) Rigid plastic containers or plastic bottles that are  
17 or are used for medical devices, medical products that are required  
18 to be sterile, nonprescription and prescription drugs, or dietary  
19 supplements as defined in RCW 82.08.0293;

20 ((~~c~~)) (iii) Bladders or pouches that contain wine; or

21 ((~~d~~)) (iv) Liners, caps, corks, closures, labels, and other  
22 items added externally or internally but otherwise separate from the  
23 structure of the bottle or container, other than a cap or lids; and

24 (c) Other products subject to minimum postconsumer recycled  
25 content requirements.

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

29 (i) ((A)) With a minimum capacity of eight fluid ounces or its  
30 equivalent volume;

31 (ii) ((A)) With a maximum capacity of five fluid gallons or its  
32 equivalent volume;

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

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

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

36 (b) "Plastic household cleaning (~~and~~) product container or  
37 personal care product container" does not include:

38 (i) Refillable household cleaning (~~and~~) product containers or  
39 personal care product containers, such as containers that are  
40 sufficiently durable for multiple rotations of their original or



1 similar purpose and are intended to function in a system of reuse;  
2 ((and))

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

7 (iii) Other covered products subject to minimum postconsumer  
8 recycled content requirements.

9 (16) "Plastic trash bag" means a bag that is made of  
10 noncompostable plastic, is at least 0.70 mils thick, and is designed  
11 and manufactured for use as a container to hold, store, or transport  
12 materials to be discarded or recycled, and includes, but is not  
13 limited to, a garbage bag, recycling bag, lawn or leaf bag, can liner  
14 bag, kitchen bag, or compactor bag. "Plastic trash bag" does not  
15 include any compostable bags meeting the requirements of chapter  
16 70A.455 RCW. "Plastic trash bag" does not include any reusable  
17 plastic carryout bag meeting the requirements of RCW  
18 70A.530.020(6)(b).

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

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

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

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

36 (ii) If the covered product is manufactured by a person other  
37 than the brand owner, the producer is the person who is the licensee  
38 of a brand or trademark under which a covered product is sold,  
39 offered for sale, or distributed in or into this state, whether or  
40 not the trademark is registered in this state, unless the

1 manufacturer or brand owner of the covered product has agreed to  
2 accept responsibility under this chapter; or

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

7 (b) "Producer" does not include:

8 (i) Government agencies, municipalities, or other political  
9 subdivisions of the state; or

10 (ii) Registered 501(c)(3) charitable organizations and 501(c)(4)  
11 social welfare organizations(~~;~~~~or~~

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

14 ~~(A) Less than one ton of a single category of plastic beverage~~  
15 ~~containers, plastic household cleaning and personal care containers,~~  
16 ~~or plastic trash bags each year; or~~

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

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

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

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

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

35 (22) "Brand" means a name, symbol, word, logo, or mark that  
36 identifies a product and attributes the product and its components,  
37 including packaging, to the brand owner of the product as the  
38 producer.

39 (23) "De minimis producer" means an entity that annually sells,  
40 offers for sale, distributes, or imports:

1 (a) In or into the country for sale in Washington state less than  
2 one ton of covered products; or

3 (b) A global gross revenue of less than \$5,000,000 for the most  
4 recent fiscal year of the organization.

5 (24) "Durable good" means a product that provides utility over an  
6 extended period of time.

7 (25) "Entity" means an individual and any form of business  
8 enterprise. For purposes of calculating the de minimis producer  
9 thresholds under this chapter, a producer entity includes all legal  
10 entities that are affiliated by common ownership of 50 percent or  
11 greater, including parents, subsidiaries, and commonly owned  
12 affiliates.

13 (26) "Household" means all of the people who occupy a residential  
14 property regardless of their relationship to one another.

15 (27) "Personal care product" means a product intended or marketed  
16 for use to be rubbed, poured, sprinkled, or sprayed on, introduced  
17 into, or otherwise applied to the human body for cleansing,  
18 beautifying, promoting attractiveness, or altering the appearance  
19 including:

20 (a) Shampoo, conditioner, styling sprays and gels, and other hair  
21 care products;

22 (b) Lotion, moisturizer, facial toner, and other skin care  
23 products;

24 (c) Liquid soap and other body care products; or

25 (d) Other products used to maintain, improve, or enhance personal  
26 care or appearance.

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

30 (i) Capable of maintaining its shape when empty;

31 (ii) Comprised solely of one or multiple plastic resins and  
32 designed to contain a product; and

33 (iii) Sealed with tamper-proof film or a detachable lid capable  
34 of multiple openings and closures.

35 (b) "Plastic tub" does not include:

36 (i) Household cleaning and personal care products;

37 (ii) Plastic containers that are or are used for medical devices,  
38 medical products that are required to be sterile, nonprescription and  
39 prescription drugs, or dietary supplements as defined in RCW  
40 82.08.0293;

1 (iii) Thermoform plastic containers;  
2 (iv) Single-use plastic cups; and  
3 (v) Other covered products subject to minimum postconsumer  
4 recycled content requirements.

5 (29) (a) "Single-use plastic cup" means all beverage cups that are  
6 nonsealed or sealed at point-of-sale.

7 (b) Single-use plastic cups do not include: (i) Commercially or  
8 home compostable cups; (ii) expanded polystyrene cups; (iii)  
9 composite plastic-lined fiber cups; or (iv) other covered products  
10 subject to minimum postconsumer recycled content requirements.

11 (30) (a) "Thermoform plastic container" means a clear or colored  
12 plastic container, such as a clamshell, lid, tray, egg carton,  
13 trifold, or similar rigid, nonbottle packaging, formed from sheets of  
14 extruded plastic resin and used to package consumable or durable  
15 goods that reach consumers, including:

16 (i) Branded and prepackaged containers that have been filled with  
17 products and sealed prior to receipt by the retail establishment,  
18 such as fresh produce, baked goods, nuts, toys, electronics, and  
19 tools;

20 (ii) Containers that may be filled at the point-of-sale at a  
21 retail establishment;

22 (iii) Unfilled containers that are sold directly;

23 (iv) Hinged plastic containers, commonly known as "clamshells" or  
24 "blister packaging";

25 (v) Two-piece unhinged containers;

26 (vi) One-piece containers without lids, such as trays; and

27 (vii) Trifold or tent containers with one or more hinges and a  
28 flat bottom.

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

30 (i) Household cleaning products or personal care products;

31 (ii) Plastic tubs;

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

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

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

38 (vi) Plastic containers that are or are used for medical devices,  
39 medical products that are required to be sterile, prescription drugs,  
40 or dietary supplements as defined in RCW 82.08.0293;

1 (vii) Other covered products subject to minimum postconsumer  
2 recycled content requirements under this chapter; and  
3 (viii) Thermoform plastic containers accompanying a durable good  
4 when the durable good model, and the associated packaging, was  
5 designed prior to January 1, 2028.

6 **Sec. 302.** RCW 70A.245.020 and 2021 c 313 s 3 are each amended to  
7 read as follows:

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

10 (i) Beverages other than wine in 187 milliliter plastic beverage  
11 containers and dairy milk in plastic beverage containers must meet  
12 minimum postconsumer recycled content requirements established under  
13 (~~subsection (4) of this~~) section 202 of this act; and

14 (ii) Plastic trash bags must meet minimum postconsumer recycled  
15 content requirements established under (~~subsection (6) of this~~)  
16 section 204 of this act.

17 (b) Beginning January 1, 2025, producers that offer for sale,  
18 sell, or distribute in or into Washington household cleaning (~~and~~)  
19 products or personal care products in plastic household cleaning  
20 product containers and personal care product containers must meet  
21 minimum postconsumer recycled content as required under (~~subsection~~  
22 ~~(5) of this~~) section 203 of this act.

23 (c) Beginning January 1, 2028, producers that offer for sale,  
24 sell, or distribute in or into Washington wine in 187 milliliter  
25 plastic beverage containers or dairy milk in plastic beverage  
26 containers must meet minimum postconsumer recycled content as  
27 required under (~~subsection (4) of this~~) section 202 of this act.

28 (d) Beginning January 1, 2026, producers that offer for sale,  
29 sell, or distribute in or into Washington plastic tubs used for food  
30 products must meet minimum postconsumer recycled content requirements  
31 established under section 205 of this act.

32 (e) Beginning January 1, 2029, producers that offer for sale,  
33 sell, or distribute in or into Washington single-use plastic cups  
34 must meet minimum postconsumer recycled content requirements  
35 established under section 206 of this act.

36 (f) Beginning January 1, 2031, producers that offer for sale,  
37 sell, or distribute in or into Washington thermoform plastic  
38 containers except those containing durable goods must meet minimum

1 postconsumer recycled content requirements established under section  
2 207 of this act.

3 (g) Beginning January 1, 2036, producers that offer for sale,  
4 sell, or distribute in or into Washington durable goods in thermoform  
5 plastic containers must meet minimum postconsumer recycled content  
6 requirements established under section 207 of this act.

7 (2) (a) On or before April 1, 2022, and annually thereafter, a  
8 producer that offers for sale, sells, or distributes in or into  
9 Washington covered products must register with the department  
10 individually or through a third-party representative registering on  
11 behalf of a group of producers. A producer of products newly added to  
12 the list of covered products under this act must register with the  
13 department individually or through a third-party representative  
14 registering on behalf of a group of producers on or before April 1,  
15 2024.

16 (b) The registration information submitted to the department  
17 under this section must include a list of the producers of covered  
18 products and the brand names of the covered products represented in  
19 the registration submittal. ~~Beginning ((April 1, 2024, for plastic~~  
20 ~~trash bags and plastic beverage containers other than wine in 187~~  
21 ~~milliliter plastic beverage containers and dairy milk in plastic~~  
22 ~~beverage containers, April 1, 2026, for plastic household and~~  
23 ~~personal care product containers, and April 1, 2029, for wine in 187~~  
24 ~~milliliter plastic beverage containers and dairy milk)) in the year~~  
25 in which an annual report must be submitted by a producer under RCW  
26 70A.245.030, a producer may submit registration information at the  
27 same time as the information submitted through the annual reporting  
28 ((required under RCW 70A.245.030)).

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

31 (i) Prepare an annual workload analysis for public comment that  
32 identifies the annual costs it expects to incur to implement,  
33 administer, and enforce ~~((this section and RCW 70A.245.030 through~~  
34 ~~70A.245.060 and 70A.245.090 (1), (2), and (4))~~) the requirements  
35 related to postconsumer recycled content under this chapter,  
36 including rule making, in the next fiscal year for each category of  
37 covered products;

38 (ii) Determine a total annual fee payment by producers or their  
39 third-party representatives for each category of covered products

1 that is adequate to cover, but not exceed, the workload identified in  
2 (a)(i) of this subsection;

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

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

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

17 (b) The department must:

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

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

24 (c) By April 1, 2022, and every April 1st thereafter, producers  
25 or their third-party representative must submit a fee payment as  
26 determined by the department under (a) of this subsection. Producers  
27 of products newly included as covered products by this act must  
28 submit a fee payment as determined by the department under (a) of  
29 this subsection by April 1, 2024, and each April 1st thereafter.

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

35 ~~(a) For beverages except wine in 187 milliliter plastic beverage~~  
36 ~~containers and dairy milk:~~

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

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

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

3 ~~(b) For wine in 187 milliliter plastic beverage containers and~~  
4 ~~dairy milk:~~

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

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

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

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

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

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

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

22 ~~(6) A producer of plastic trash bags must meet the following~~  
23 ~~annual minimum postconsumer recycled content percentage on average~~  
24 ~~for the total quantity of plastic trash bags, by weight, that are~~  
25 ~~sold, offered for sale, or distributed in or into Washington by the~~  
26 ~~producer effective:~~

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

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

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

33 ~~(7)) (a) ((Beginning January 1, 2024, or when rule making is~~  
34 ~~complete, whichever is sooner, the department may, on an annual basis~~  
35 ~~on January 1st,)) By October 31st of each year, the department may~~  
36 ~~review and determine for the following year whether to adjust the~~  
37 ~~minimum postconsumer recycled content percentage required for a type~~  
38 ~~of container or product or category of covered products pursuant to~~  
39 ~~((subsection (4), (5), or (6) of this section)) this chapter. The~~  
40 ~~department's review may be initiated by the department or at the~~



1 petition of a producer or a covered product manufacturing industry  
2 not more than once annually. Petitions for review and adjustment must  
3 be made to the department in the annual report submitted under RCW  
4 70A.245.030 by June 30th of the year prior to the year in which the  
5 adjustment would apply. When submitting a petition, producers or a  
6 producer manufacturing industry must provide necessary information  
7 that will allow the department to make a determination under (b) of  
8 this subsection.

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

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

14 (ii) Recycling rates;

15 (iii) The availability of recycled plastic suitable to meet the  
16 minimum postconsumer recycled content requirements pursuant to  
17 (~~subsection (4), (5), or (6) of this section~~) this chapter,  
18 including the availability of high quality recycled plastic, and  
19 food-grade recycled plastic from recycling programs;

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

21 (v) The technical feasibility of achieving the minimum  
22 postconsumer recycled content requirements in covered products that  
23 are regulated under 21 C.F.R., chapter I, subchapter G, 7 U.S.C. Sec.  
24 136, 15 U.S.C. Sec. 1471-1477, 49 C.F.R. Sec. 178.33b, 49 C.F.R. Sec.  
25 173, 40 C.F.R. Sec. 152.10, 15 U.S.C. Sec. 1261-1278, 49 U.S.C. 5101  
26 et seq., 49 C.F.R. Sec. 178.509, 49 C.F.R. Sec. 179.522, 49 C.F.R.  
27 Sec. 178.600-609, and other federal laws; and

28 (vi) The progress made by producers in achieving the postconsumer  
29 recycled content goals of this (~~section~~) chapter.

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

31 (i) The department may not adjust the minimum postconsumer  
32 recycled content requirements above the minimum postconsumer recycled  
33 content percentages for the year under review required pursuant to  
34 (~~subsection (4), (5), or (6) of this section~~) sections 202 through  
35 207 of this act.

36 (ii) For plastic household cleaning product containers and  
37 personal care product containers, the department may not adjust the  
38 minimum postconsumer recycled content requirements above the minimum  
39 postconsumer recycled content percentages for the year under review

1 required pursuant to (~~subsection (5) of this~~) section 203 of this  
2 act or below a minimum of 10 percent.

3 (iii) For plastic trash bags, the department may not adjust the  
4 minimum postconsumer recycled content requirements above the minimum  
5 postconsumer recycled content percentages for the year under review  
6 required pursuant to (~~subsection (6) of this~~) section 204 of this  
7 act or below the minimum percentage required in (~~subsection (6)(a)~~  
8 ~~of this~~) section 204(1) of this act.

9 (d) A producer or the manufacturing industry for a covered  
10 product may appeal a decision by the department to adjust  
11 postconsumer recycled content percentages under (a) of this  
12 subsection or to temporarily exclude covered products from minimum  
13 postconsumer recycled content requirements under subsection (~~(+8)~~)  
14 (5) of this section to the pollution control hearings board within 30  
15 days of the department's determination.

16 (~~(+8)~~) (5) The department must temporarily exclude from minimum  
17 postconsumer recycled content requirements for the upcoming year any  
18 types of covered products in plastic containers for which a producer  
19 annually demonstrates to the department by (~~December 31st~~) June 1st  
20 of a given year that the achievement of postconsumer recycled content  
21 requirements in the container material is not technically feasible in  
22 order to comply with health or safety requirements of federal law,  
23 including the federal laws specified in subsection (~~(+7)~~) (4)(b)(v)  
24 of this section. A producer must continue to register and report  
25 consistent with the requirements of this chapter for covered products  
26 temporarily excluded from minimum postconsumer recycled content  
27 requirements under this subsection.

28 (~~(+9)~~) (6)(a) A producer or group of producers may evaluate the  
29 postconsumer recycled content requirements in sections 202 (1)(c) and  
30 (2)(c), 203(3), 204(2), 205 (1) and (2), and 206 (1)(b) and (2)(a) of  
31 this act and assess the market conditions, postconsumer recycled  
32 content availability, and technological feasibility of these  
33 requirements, no later than six months prior to the dates identified  
34 in those sections. The producer or group of producers may request an  
35 extension of these requirements and must present data, from the  
36 evaluation performed under this subsection, to the department. The  
37 department may grant the extension of the implementation of one or  
38 more of these requirements for up to one year.

39 (b) The department shall review the extension request from the  
40 producer or group of producers within 30 days of the request and

1 approve, partially approve, deny, or request additional information  
2 to evaluate the extension request.

3 (c) The department may renew an approved extension annually, upon  
4 request of a producer or group of producers, and submission of data  
5 demonstrating that the conditions justifying the current extension  
6 remain in place.

7 (d) If an extension is granted, the department may report to the  
8 legislature any potential need to revise these requirements, prior to  
9 the expiration of a one-year extension period.

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

13 ~~((10))~~ (8)(a) A city, town, county, or municipal corporation  
14 may not implement local recycled content requirements for a covered  
15 product that is subject to minimum postconsumer recycled content  
16 requirements established in this section.

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

23 ~~((11))~~ (9) The department may enter into contracts for the  
24 services required to implement this chapter and related duties of the  
25 department.

26 ~~((12))~~ (10) In-state distributors, wholesalers, and retailers  
27 in possession of covered products manufactured before the date that  
28 postconsumer recycled content requirements become effective may  
29 exhaust their existing stock through sales to the public.

30 **Sec. 303.** RCW 70A.245.030 and 2021 c 313 s 4 are each amended to  
31 read as follows:

32 (1)(a) Except as provided in (b) (~~and (e)~~) through (f) of this  
33 subsection, beginning (~~April 1~~) June 30, 2024, each producer of  
34 covered products, individually or through a third party representing  
35 a group of producers, must provide an annual report to the department  
36 that includes the amount in pounds of virgin plastic and the amount  
37 in pounds of postconsumer recycled content by resin type used for  
38 each category of covered products that are sold, offered for sale, or  
39 distributed in or into Washington state, including the total

1 postconsumer recycled content resins as a percentage of total weight.  
2 The report must be submitted in a format and manner prescribed by the  
3 department. A (~~manufacturer~~) producer may submit national data  
4 allocated on a per capita basis for Washington to approximate the  
5 information required in this subsection if the producer or third-  
6 party representative demonstrates to the department that state level  
7 data are not available or feasible to generate.

8 (b) The report required in (a) of this subsection must include a  
9 certificate of compliance or similar proof of certification conducted  
10 by a nationally recognized, independent third party that has achieved  
11 ISO/IEC 17065 accreditation, as it existed as of January 1, 2023, or  
12 a similar certification identified by the department. The proof of  
13 certification must include all of the following:

14 (i) The names, locations, and contact information of all sources  
15 of postconsumer recycled content material and suppliers of  
16 postconsumer recycled content material;

17 (ii) The quantity and dates of postconsumer recycled content  
18 material purchases by the producer; and

19 (iii) How postconsumer recycled content material was obtained.

20 (c) The requirements of (a) of this subsection apply to household  
21 cleaning products in plastic containers and personal care products in  
22 plastic containers beginning (~~April 1~~) June 30, 2026.

23 ~~((e))~~ (d) The requirements of (a) of this subsection apply to  
24 wine in 187 milliliter plastic beverage containers and dairy milk in  
25 plastic beverage containers beginning (~~April 1, 2029~~) June 30,  
26 2026.

27 ~~((d))~~ (e) The requirements of (a) of this subsection apply to  
28 plastic tubs used for food products beginning June 30, 2027.

29 (f) The requirements of (a) of this subsection apply to  
30 thermoform plastic containers beginning June 30, 2027.

31 (g) The requirements of (a) of this subsection apply to single-  
32 use plastic cups beginning June 30, 2030.

33 (h) The requirements of (a) of this subsection apply to plastic  
34 nursery pots and trays beginning June 30, 2027.

35 (i) The department must post the information reported under this  
36 subsection on its website, except as provided in subsection (2) of  
37 this section.

38 (2) A producer that submits information or records to the  
39 department under this chapter may request that the information or  
40 records be made available only for the confidential use of the

1 department, the director, or the appropriate division of the  
2 department. The director of the department must give consideration to  
3 the request and if this action is not detrimental to the public  
4 interest and is otherwise in accordance with the policies and  
5 purposes of chapter 43.21A RCW, the director must grant the request  
6 for the information to remain confidential as authorized in  
7 RCW 43.21A.160.

8 (3) The department must review and may approve reports submitted  
9 under this section. The department must:

10 (a) Make reports submitted under this section, including  
11 petitions for exclusions or rate adjustments under this chapter,  
12 available for public review and comment for at least 30 days upon the  
13 receipt of the annual report by the department;

14 (b) Make a determination as to whether or not an annual report  
15 meets the requirements of this section and notify the producer of  
16 the:

17 (i) Determination of approval of the report; or

18 (ii) Reasons for not approving the report. The producer must  
19 submit a revised report within 60 days after receipt of the letter of  
20 disapproval.

21 (4) The department must post approved annual reports submitted by  
22 each producer under this section on its website. The department must  
23 also post on its website all resin suppliers meeting postconsumer  
24 recycled content certification requirements.

25 **Sec. 304.** RCW 70A.245.040 and 2021 c 313 s 5 are each amended to  
26 read as follows:

27 (1)(a) A producer that does not meet the minimum postconsumer  
28 recycled content requirements pursuant to ((RCW 70A.245.020)) this  
29 chapter is subject to a penalty pursuant to this section. Beginning  
30 June 1st of the year following the first year that minimum  
31 postconsumer recycled product content requirements apply to a  
32 category of covered product, the penalty must be calculated  
33 consistent with subsection (2) of this section unless a penalty  
34 reduction or corrective action plan has been approved pursuant to  
35 subsection (3) of this section.

36 (b) A producer that is assessed a penalty pursuant to this  
37 section may pay the penalty to the department in one payment, in  
38 quarterly installments, or arrange an alternative payment schedule  
39 subject to the approval of the department, not to exceed a 12-month

1 payment schedule unless the department determines an extension is  
2 needed due to unforeseen circumstances, such as a public health  
3 emergency, state of emergency, or natural disaster.

4 (2) Beginning (~~June~~) October 1st of the year following the  
5 first year that minimum postconsumer recycled product content  
6 requirements apply to a category of covered product, and annually  
7 thereafter, the department shall determine the penalty for the  
8 previous calendar year based on the postconsumer recycled content  
9 requirement of the previous calendar year. The department shall  
10 calculate the amount of the penalty based upon the amounts in pounds  
11 in the aggregate of virgin plastic, postconsumer recycled content  
12 plastic, and any other plastic per category used by the producer to  
13 produce covered products sold or offered for sale in or into  
14 Washington state, in accordance with the following:

15 (a)(i) The annual penalty amount assessed to a producer must  
16 equal the product of both of the following: The total pounds of  
17 plastic used per category multiplied by the relevant minimum  
18 postconsumer recycled plastic target percentage, less the pounds of  
19 total plastic multiplied by the percent of postconsumer recycled  
20 plastic used; multiplied by 20 cents.

21 (ii) Example: [(Total pounds of plastic used x minimum  
22 postconsumer recycled plastic target percentage) - (Total pounds of  
23 plastic used x postconsumer recycled plastic percentage used)] x 20  
24 cents.

25 (b) For the purposes of (a) of this subsection, both of the  
26 following apply:

27 (i) The total pounds of plastic used must equal the sum of the  
28 amount of virgin plastic, postconsumer recycled content plastic, and  
29 any other plastic used by the producer, as reported pursuant to RCW  
30 70A.245.030.

31 (ii) If the product calculated pursuant to (a) of this subsection  
32 is equal to or less than zero, the department may not assess a  
33 penalty.

34 (3)(a)(i) The department shall consider granting a reduction of  
35 penalties assessed pursuant to this section for the purpose of  
36 meeting the minimum postconsumer recycled content requirements  
37 required pursuant to RCW 70A.245.020.

38 (ii) In determining whether to grant the reduction pursuant to  
39 (a)(i) of this subsection, the department shall consider, at a  
40 minimum, all of the following factors:

1 (A) Anomalous market conditions;  
2 (B) Disruption in, or lack of supply of, recycled plastics; and  
3 (C) Other factors that have prevented a producer from meeting the  
4 requirements.

5 (b) In lieu of or in addition to assessing a penalty under this  
6 section, the department may require a producer to submit a corrective  
7 action plan detailing how the producer plans to come into compliance  
8 with ((RCW 70A.245.020)) the minimum postconsumer recycled content  
9 requirements of this chapter.

10 (4) For the purposes of determining compliance with the  
11 postconsumer recycled content requirements of this chapter, the  
12 department may consider the date of manufacture of a covered product  
13 or the container of a covered product.

14 (5) A producer shall pay the penalty assessed pursuant to this  
15 section, as applicable, based on the information reported to the  
16 department as required under RCW 70A.245.030 in the form and manner  
17 prescribed by the department.

18 (6) A producer may appeal the penalty assessed under this section  
19 to the pollution control hearings board within 30 days of assessment.

20 (7) Penalties collected under this section must be deposited in  
21 the recycling enhancement account created in RCW 70A.245.100.

22 **Sec. 305.** RCW 70A.245.060 and 2021 c 313 s 7 are each amended to  
23 read as follows:

24 (1) Beginning January 1, 2023, producers shall label each package  
25 containing plastic trash bags sold, offered for sale, or distributed  
26 in or into Washington with:

27 (a) The name of the producer and the city, state, and country  
28 where the producer is located, which may be designated as the  
29 location of the producer's corporate headquarters and, beginning  
30 January 1, 2025, with the percentage of postconsumer recycled content  
31 that the plastic trash bag contains in accordance with 16 C.F.R. Part  
32 260, as it existed as of the effective date of this section; or

33 (b) A uniform resource locator or quick response code to an  
34 internet website that contains the information required pursuant to  
35 (a) of this subsection.

36 (2)(a) The provisions of subsection (1) of this section do not  
37 apply to a plastic bag that is designed and manufactured to hold,  
38 store, or transport dangerous waste or biomedical waste.

39 (b) For the purposes of this subsection:

1 (i) "Biomedical waste" means any waste defined as that term under  
2 RCW 70A.228.010; and

3 (ii) "Dangerous waste" means any waste defined as dangerous  
4 wastes under RCW 70A.300.010.

5 **Sec. 306.** RCW 70A.245.090 and 2021 c 313 s 12 are each amended  
6 to read as follows:

7 (1) The department may conduct audits and investigations for the  
8 purpose of ensuring compliance with ~~((RCW 70A.245.020 and~~  
9 ~~70A.245.040))~~ the postconsumer recycled content requirements of this  
10 chapter based on the information reported under RCW 70A.245.030.

11 (2) The department shall annually publish a list of registered  
12 producers of covered products subject to minimum postconsumer  
13 recycled content requirements and associated brand names, their  
14 compliance status, and other information the department deems  
15 appropriate on the department's website.

16 (3) To assist regulated parties with the requirements specified  
17 under RCW 70A.245.070 and 70A.245.080, the department:

18 (a) Must prepare and post on its website information regarding  
19 the prohibitions on the sale and distribution of expanded polystyrene  
20 products as specified under RCW 70A.245.070 and restrictions on the  
21 provision of optional serviceware under RCW 70A.245.080;

22 (b) For education and outreach to help implement RCW 70A.245.070  
23 and 70A.245.080, may develop culturally appropriate and translated  
24 educational materials and resources for the state's diverse ethnic  
25 populations from existing materials used by local jurisdictions and  
26 other states.

27 (4) The department may adopt rules as necessary to administer,  
28 implement, and enforce this chapter.

29 **Sec. 307.** RCW 70A.245.110 and 2021 c 313 s 14 are each amended  
30 to read as follows:

31 The recycled content account is created in the custody of the  
32 state treasurer. All receipts received by the department under RCW  
33 70A.245.020 must be deposited in the account. Only the director of  
34 the department or the director's designee may authorize expenditures  
35 from the account. The account is subject to the allotment procedures  
36 under chapter 43.88 RCW, but an appropriation is not required for  
37 expenditures. Expenditures from the account may be used by the  
38 department only for implementing, administering, and enforcing ~~(the~~



1 ~~requirements of RCW 70A.245.020 through 70A.245.060 and 70A.245.090~~  
2 ~~(1), (2), and (4))~~ the provisions of this chapter related to minimum  
3 postconsumer recycled content of products.

4 **Sec. 308.** RCW 70A.245.120 and 2021 c 313 s 15 are each amended  
5 to read as follows:

6 (1) Subject to the availability of amounts appropriated for this  
7 specific purpose prior to January 1, 2028, the department shall  
8 contract with a research university or an independent third-party  
9 consultant to study the plastic resin markets for all of the  
10 following:

11 (a) Analyzing market conditions and opportunities in the state's  
12 recycling industry for meeting the minimum postconsumer recycled  
13 content requirements for covered products pursuant to ((RCW  
14 ~~70A.245.020 and 70A.245.030~~) this chapter; and

15 (b) Determining the data needs and tracking opportunities to  
16 increase the transparency and support of a more effective, fact-based  
17 public understanding of the recycling industry.

18 (2) If funding is provided pursuant to subsection (1) of this  
19 section and the department undertakes the study, the study must be  
20 completed by May 1, 2029.

21 (3) This section expires July 1, 2029.

22 **PART 4**

23 **MISCELLANEOUS PROVISIONS**

24 NEW SECTION. **Sec. 401.** Sections 101 through 104 and 201 through  
25 208 of this act are each added to chapter 70A.245 RCW.

26 NEW SECTION. **Sec. 402.** If any provision of this act or its  
27 application to any person or circumstance is held invalid, the  
28 remainder of the act or the application of the provision to other  
29 persons or circumstances is not affected."

30 Correct the title.

EFFECT: Strikes producer responsibility organization and distributor responsibility organization participation requirements, eliminates postconsumer recycled content requirements for plastic plant pots and trays and collection bins, and eliminates the option for the department of ecology to use a clearinghouse for packaging registration and reporting requirements. Retains provisions related

to: (1) The truth-in-labeling of recyclability claims, which are newly based on recyclability determinations made after a waste characterization study is to be carried out; (2) postconsumer recycled content requirements applicable to plastic tubs, plastic cups, and thermoform plastic containers, with new limitations on postconsumer recycled content requirements applying in instances of overlap with specified federal laws; and (3) providing for a performance rates study and needs assessment to be carried out by a third-party consultant selected by the department of 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.

--- END ---