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**SUBSTITUTE HOUSE BILL 1131**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** House Environment & Energy (originally sponsored by Representatives Berry, Doglio, Reed, Fitzgibbon, Taylor, Pollet, Ryu, Ortiz-Self, Ramel, Callan, Macri, Simmons, Chopp, Lekanoff, Duerr, Wylie, Stonier, and Kloba)

READ FIRST TIME 02/07/23.

1 AN ACT Relating to improving Washington's solid waste management  
2 outcomes; amending RCW 70A.245.010, 70A.245.020, 70A.245.030,  
3 70A.245.040, 70A.245.090, 70A.245.100, 70A.245.120, 70A.245.060,  
4 70A.205.005, 70A.205.010, 70A.205.045, 81.77.030, 81.77.040,  
5 81.77.160, 81.77.185, 43.21B.110, and 43.21B.300; adding a new  
6 section to chapter 70A.222 RCW; adding a new section to chapter  
7 70A.350 RCW; adding a new section to chapter 70A.245 RCW; adding a  
8 new section to chapter 70A.230 RCW; adding a new section to chapter  
9 70A.340 RCW; adding a new section to chapter 70A.455 RCW; adding a  
10 new section to chapter 69.50 RCW; adding new chapters to Title 70A  
11 RCW; creating a new section; repealing RCW 70A.245.110; prescribing  
12 penalties; and providing an expiration date.

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

14 **Part One**

15 **Providing for Producer Responsibility in the Management of Packaging**  
16 **and Paper Products**

17 NEW SECTION. **Sec. 101.** FINDINGS—INTENT. (1) The legislature  
18 finds that, as of 2023, Washington's statewide waste recovery rate,  
19 which seeks to preserve public health, safety, and welfare, and  
20 conserve energy and natural resources, has been on a declining trend

1 since 2011 and that Washington is not meeting the statewide goal of  
2 50 percent recycling established in 1989.

3 (2) The legislature finds that packaging designs and materials  
4 have changed and the way Washington's residents use, consume, and  
5 manage materials when no longer wanted has also changed significantly  
6 in recent years. These shifts have created unintended consequences,  
7 such as the deterioration of ecosystems regionally and worldwide, as  
8 well as increased levels of pollution and greenhouse gas emissions  
9 that contribute to global climate change, and reductions in human  
10 well-being, especially for the most vulnerable populations.

11 (3) The legislature finds that convenient and environmentally  
12 sound extended producer responsibility programs that include  
13 collecting, transporting, reusing, and recycling, or the proper end-  
14 of-life management of unwanted products help protect Washington's  
15 environment and the health of state residents. In general, the  
16 state's waste management hierarchy establishes that products should  
17 be managed in a manner where a priority is placed on prevention,  
18 waste reduction, source reduction, reuse, and recycling over energy  
19 recovery and landfill disposal.

20 (4) The legislature finds that many residents, particularly those  
21 who live in rural areas and in multifamily residences, do not have  
22 access to convenient or affordable curbside recycling, and must rely  
23 on taking recyclables to drop box locations, and that extended  
24 producer responsibility programs could make curbside recycling  
25 available and affordable for most people in the state.

26 (5) The legislature also finds that the department of ecology was  
27 directed, through an independent consultant, to study how plastic  
28 packaging is managed in the state, assess various policy options, and  
29 that the study recommendations included establishing an extended  
30 producer responsibility policy for all consumer packaging and paper  
31 products with a framework that makes producers responsible for  
32 achieving specific management and environmental outcomes for the  
33 packaging and paper products they supply into Washington state, as  
34 well as recommending that postconsumer recycled content requirements  
35 and a deposit return system for beverage containers be established.

36 (6) In addition, the legislature finds extended producer  
37 responsibility policies designed to cover all consumer packaging and  
38 paper materials offer the potential for greater economies of scale  
39 and operational efficiencies than could be achieved under a policy  
40 applied only to a subset of materials.

1 (7) It is the intent of the legislature to require that extended  
2 producer responsibility programs, including the achievement of  
3 recycling rates, are implemented by and for producers of consumer  
4 packaging and paper products in a manner that involves producers in  
5 material management from design concept to end-of-life. These  
6 programs incentivize innovation and research to develop more  
7 efficient recycling technologies and minimize environmental impacts  
8 of the packaging and paper products.

9 (8) It is also intended that these programs be responsibly  
10 managed, so that covered products are handled and accounted for from  
11 the point of collection through the final destination in a way that  
12 benefits the environment and minimizes risks to public health and  
13 worker health and safety. It is intended that these programs build  
14 and expand on the existing waste and recycling system's  
15 infrastructure and reliance on the role of local governments and the  
16 utilities and transportation commission in solid waste management.

17 (9) It is also the intent of the legislature that producers  
18 increase the use of postconsumer recycled content in their products,  
19 to achieve the goals in RCW 70A.520.010(2), in order to create strong  
20 markets for recycled materials and achieve environmental benefits.

21 (10) It is the intent of the legislature that, through design and  
22 innovation, producers will reduce the use and climate impact of  
23 consumer packaging and paper products, increase the use of  
24 postconsumer recycled content, and make all packaging reusable,  
25 recyclable, or compostable.

26 (11) Finally, it is the intent of the legislature that Washington  
27 should maintain the successful public-private partnership between  
28 state, local government, and solid waste and recycling service  
29 providers. The legislature does not intend to diminish or displace  
30 the primary role of the utilities and transportation commission and  
31 local governments in regulating or contracting directly with service  
32 providers for the curbside collection of residential recyclables.  
33 Local governments maintain their existing authority to collect,  
34 contract for collection with solid waste and recycling service  
35 providers, or defer to solid waste collection services regulated by  
36 the utilities and transportation commission.

37 NEW SECTION. **Sec. 102.** DEFINITIONS. The definitions in this  
38 section apply throughout this chapter unless the context clearly  
39 requires otherwise.

- 1 (1) "Advisory council" means the advisory council created in  
2 section 120 of this act.
- 3 (2) "Alternative recycling process" means a recycling process  
4 that occurs other than through purely mechanical means.
- 5 (3) "Aluminum" means a covered product made of the chemical  
6 element aluminum that forms a silvery white to dull gray, nonmagnetic  
7 metal.
- 8 (4) "Brand" means a name, symbol, word, logo, or mark that  
9 identifies a product and attributes the product and its components,  
10 including packaging, to the brand owner of the product as the  
11 producer.
- 12 (5) "Brand owner" means a person who owns or licenses a brand or  
13 who otherwise has rights to market a product under the brand, whether  
14 or not the brand trademark is registered.
- 15 (6) "Compostable" means a product that is capable of undergoing  
16 aerobic biological decomposition in a composting system, that results  
17 in the material being broken down primarily into carbon dioxide,  
18 water, inorganic compounds, and biomass, and is in compliance with  
19 the requirements for a product labeled as compostable under chapter  
20 70A.455 RCW.
- 21 (7) "Composting system" means a system meeting the requirements  
22 of chapter 70A.205 RCW applicable to facilities that treat solid  
23 waste for composting.
- 24 (8) "Consumer" means a person who purchases or receives a covered  
25 product and is the intended end user or recipient of the covered  
26 product.
- 27 (9) "Contamination" means:  
28 (a) The presence of materials in a given collected material  
29 stream that are not on the list of materials designated for  
30 collection in that material stream; or  
31 (b) The presence of materials in a given recycled material  
32 delivered as a feedstock or commodity that are not specified or  
33 accepted as a component of the feedstock or commodity.
- 34 (10) "Covered product" means packaging and paper products sold or  
35 supplied to consumers for personal, noncommercial use.
- 36 (11) "Department" means the department of ecology.
- 37 (12) "Designated for collection" means the covered products that  
38 are included in the material categories listed in a producer  
39 responsibility organization's plan to be collected for reuse or  
40 recycling.

1 (13) "Eliminate" or "elimination," with respect to source  
2 reduction, means the removal of a plastic component from a covered  
3 material.

4 (14) "Final disposition" means the point at which a covered  
5 product:

- 6 (a) Becomes a reused material;
- 7 (b) Becomes a recycled material; or
- 8 (c) Is delivered to a disposal site, as defined in RCW  
9 70A.205.015.

10 (15) "Flexible plastic" means any covered product made of  
11 polymers that is flexible in form, including films and multilayer  
12 laminates.

13 (16) "Glass" means a covered product made of soda lime glass.

14 (17) "Government entity" means any:

15 (a) County, city, town, or other local government, including any  
16 municipal corporation, quasi-municipal corporation, or special  
17 purpose district, or any office, department, division, bureau, board,  
18 commission, or agency thereof, or other local public agency;

19 (b) State office, department, division, bureau, board,  
20 commission, or other state agency;

21 (c) Federally recognized Indian tribe whose traditional lands and  
22 territories include parts of Washington; or

23 (d) Federal office, department, division, bureau, board,  
24 commission, or other federal agency.

25 (18) "Material category" means a group of covered products  
26 defined by the producer responsibility organization that have similar  
27 properties such as chemical composition, shape, or other  
28 characteristics including, but not limited to:

- 29 (a) Plastic beverage containers;
- 30 (b) Rigid plastic, excluding plastic beverage containers;
- 31 (c) Flexible plastic;
- 32 (d) Paper;
- 33 (e) Aluminum;
- 34 (f) Steel; and
- 35 (g) Glass.

36 (19) "Overburdened communities" means the overburdened  
37 communities identified and prioritized by the department under RCW  
38 70A.02.050(1)(a).

39 (20)(a) "Packaging" means a material, substance, or object that  
40 is:

1 (i) Used to protect, contain, transport, or serve a product;  
2 (ii) Sold or supplied to consumers expressly for the purpose of  
3 protecting, containing, transporting, or serving products;  
4 (iii) Attached to a product or its container for the purpose of  
5 marketing or communicating information about the product;  
6 (iv) Supplied at the point of sale to facilitate the delivery of  
7 the product; or  
8 (v) Supplied to or purchased by consumers expressly for the  
9 purpose of facilitating food or beverage consumption that is  
10 ordinarily discarded by consumers after a single use or short-term  
11 use, whether or not it could be reused.

12 (b) "Packaging" does not include:

13 (i) Materials intended to be used for the long-term storage or  
14 protection of a durable product, that is intended to transport,  
15 protect, or store the product on an ongoing basis, and that can be  
16 expected to be usable for that purpose for a period of at least five  
17 years;

18 (ii) For purposes of this chapter only, materials used to package  
19 pesticide products regulated by the federal insecticide, fungicide,  
20 and rodenticide act, 7 U.S.C. Sec. 136 et seq. that are in direct  
21 contact with the regulated product. This exemption does not include  
22 products regulated by the United States food and drug administration;

23 (iii) Products excluded temporarily under section 128 of this  
24 act;

25 (iv) Qualifying beverage containers and container labels and  
26 closures, but not secondary or ancillary packaging, subject to the  
27 requirements of chapter 70A.--- RCW (the new chapter created in  
28 section 603 of this act), upon the receipt by the department of a  
29 written notice under section 303 of this act regarding the  
30 designation of a distributor responsibility organization to implement  
31 a deposit return system under chapter 70A.--- RCW (the new chapter  
32 created in section 603 of this act);

33 (v) Liquified petroleum gas containers that are designed to be  
34 refilled and reused;

35 (vi) Packaging material that is in direct contact with a product  
36 that is regulated as animal biologics, including vaccines, bacterins,  
37 antisera, diagnostic kits, and other products of biological origin  
38 under the federal virus-serum-toxin act, 21 U.S.C. Sec. 151 et seq.,  
39 as amended; and

1 (vii) Packaging related to containers of architectural paint that  
2 has been collected by a stewardship organization under the program  
3 established in chapter 70A.515 RCW.

4 (21) "Paper" means packaging or paper products made of paper  
5 fiber, regardless of its cellulosic fiber source, which may include,  
6 but is not limited to: Wood, wheat, rice, cotton, bananas,  
7 eucalyptus, bamboo, hemp, and sugar cane or bagasse.

8 (22) "Paper product" means paper sold or supplied including, but  
9 not limited to, flyers, brochures, booklets, catalogs, magazines,  
10 copy paper, printing paper, and all other paper materials except for:  
11 (a) Bound books; (b) conservation grade and archival grade paper; (c)  
12 newspapers; (d) paper designed for use in building construction; and  
13 (e) paper products that, by any common and foreseeable use, could  
14 reasonably be anticipated to become unsafe or unsanitary to handle.

15 (23) "Plan" means description of the approach and activities  
16 developed by a producer responsibility organization to fulfill the  
17 requirements and to carry out the responsibilities of producers under  
18 this chapter.

19 (24) "Postconsumer recycled content" has the same meaning as  
20 defined in section 201 of this act.

21 (25)(a) "Producer" means the following person responsible for  
22 compliance with requirements under this chapter for a covered product  
23 sold, offered for sale, or distributed in or into this state:

24 (i) For products sold in or with packaging at a physical retail  
25 location in this state:

26 (A) If the product is sold in or with packaging under the brand  
27 of the product manufacturer or is sold in packaging that lacks  
28 identification of a brand, the producer of the packaging is the  
29 person that manufactures the product;

30 (B) If the product is sold under a retail brand, the producer is  
31 the retail brand owner;

32 (C) If the product is manufactured by a person other than the  
33 brand owner, the producer of the packaging is the person that is the  
34 licensee of a brand or trademark under which a packaged item is used  
35 in a commercial enterprise, sold, offered for sale, or distributed in  
36 or into this state, whether or not the trademark is registered in  
37 this state; or

38 (D) If there is no person described in (a)(i)(A), (B), or (C) of  
39 this subsection within the United States, the producer of the  
40 packaging is the person who imports the packaged product into the

1 United States for use in a commercial enterprise that sells, offers  
2 for sale, or distributes the product in this state.

3 (ii) For products sold or distributed in packaging in or into  
4 this state via e-commerce, remote sale, or distribution:

5 (A) For packaging used to directly protect or contain the  
6 product, the producer of packaging is the same as the producer for  
7 purposes of (a)(i) of this subsection; and

8 (B) For packaging used to ship the product to a consumer, the  
9 producer of the packaging is the person that packages and ships the  
10 product to the consumer.

11 (iii) For packaging that is a covered product and is not included  
12 in (a)(i) and (ii) of this subsection, the producer of the packaging  
13 is the person that first distributes the packaged product in or into  
14 this state.

15 (iv) For paper products that are magazines, newspapers, catalogs,  
16 telephone directories, or similar publications, the producer is the  
17 publisher.

18 (v) For paper products not described in (a)(iv) of this  
19 subsection, the producer is:

20 (A) The person that manufactures the paper product under the  
21 manufacturer's own brand;

22 (B) If the paper product is manufactured by a person other than  
23 the brand owner, the producer of the paper product is the person that  
24 is the owner or licensee of a brand or trademark under which the  
25 paper product is used in a commercial enterprise, sold, offered for  
26 sale, or distributed in or into this state, whether or not the  
27 trademark is registered in this state; or

28 (C) If there is no person described in (a)(v)(A) or (B) of this  
29 subsection within the United States, the producer of the paper  
30 product is the person that imports the paper product into the United  
31 States for use in a commercial enterprise that sells, offers for  
32 sale, or distributes the paper product in this state.

33 (vi) A person who would be considered a "producer" of a covered  
34 product sold, offered for sale, or distributed in or into this state,  
35 as defined in (a)(i) through (v) of this subsection, can designate  
36 another responsible producer for that covered product if another  
37 person agrees to accept responsibility and has registered as the  
38 producer responsible for that covered product under this chapter.

39 (b) "Producer" does not include:



1 (i) Government agencies, municipalities, or other political  
2 subdivisions of the state;

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

5 (iii) De minimis producers that annually sell, offer for sale,  
6 distribute, or import:

7 (A) In Washington state less than one ton of covered products;  
8 and

9 (B) That have a global gross revenue of less than \$5,000,000 for  
10 the most recent fiscal year of the organization.

11 (26) "Producer responsibility organization" means:

12 (a) A nonprofit organization that qualifies for a tax exemption  
13 under 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code  
14 and is designated by a producer or group of producers to develop and  
15 carry out the activities required of producers by this chapter;

16 (b) Until January 15, 2026, an organization that has applied for  
17 a tax exemption under 26 U.S.C. Sec. 501(c)(3) of the federal  
18 internal revenue code and is designated by a producer or group of  
19 producers to develop and carry out the activities required of  
20 producers under this chapter;

21 (c) A producer that registers with the department as a producer  
22 responsibility organization; or

23 (d) An organization as defined by rule by the department  
24 consistent with section 104(6) of this act.

25 (27) "Program" means the activities conducted to implement an  
26 approved producer responsibility organization plan.

27 (28)(a) "Public place" is an indoor or outdoor location open to  
28 and generally used by the public and to which the public is permitted  
29 to have access including, but not limited to, streets, sidewalks,  
30 plazas, town squares, public parks, beaches, forests, or other public  
31 land open for recreation or other uses, and transportation facilities  
32 such as bus and train stations, airports, and ferry terminals.

33 (b) "Public place" does not include a retail establishment or  
34 industrial, commercial, or privately owned property that is not  
35 required to be accessible to the public.

36 (29) "Recyclable" means a covered product that is collected,  
37 separated, and reprocessed into a recycled material, and that does  
38 not contain harmful chemical, physical, biological, or radiological  
39 substances that will pose a threat to human health or the environment  
40 for its intended or likely manner of use.

1 (30) (a) "Recycled material" means material derived from covered  
2 products that is reprocessed into products or delivered as feedstocks  
3 or commodities to a responsible end market for use in the production  
4 of new products whether for the original or another purpose.

5 (b) "Recycled material" does not include energy recovery and the  
6 reprocessing of materials that are to be used as fuels or landfill  
7 cover.

8 (31) "Responsible end market" means a materials market in which  
9 the recycling of materials and the disposal of contaminants is  
10 conducted in a way that:

11 (a) Minimizes impacts to the environment; and

12 (b) Minimizes risks to public health and worker health and  
13 safety.

14 (32) "Responsible management" means the handling, tracking, and  
15 disposition of covered products from the point of collection through  
16 the final destination of the collected material in a way that  
17 minimizes impacts to the environment and minimizes risks to public  
18 health and worker health and safety.

19 (33) "Responsible producer" means a producer that is not a de  
20 minimis producer.

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

25 (35) "Reusable" means:

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

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

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

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

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

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

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

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

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

9 (36) "Reused material" means material that is collected after use  
10 and reused for its original or similar purpose or function.

11 (37) "Rigid plastic" means any covered product made of polymers  
12 that is rigid or semirigid in form, including foams.

13 (38) "Socially just management" means practices that:

14 (a) Provide equitable access to and benefits from services,  
15 regardless of race, income, socioeconomic status, health, and other  
16 population vulnerability or sensitivity characteristics;

17 (b) Prevent or, if not preventable, minimize environmental harms  
18 or risks; and

19 (c) Prevent or, if not preventable, minimize and mitigate impacts  
20 to overburdened communities or vulnerable populations identified by  
21 the department.

22 (39) "Steel" means any covered product made of a ferrous metal  
23 substance.

24 (40) "Vulnerable populations" has the same meaning as defined in  
25 RCW 70A.02.010.

26 NEW SECTION. **Sec. 103.** PRODUCER RESPONSIBILITY ORGANIZATION  
27 DUTIES. (1)(a) Beginning July 15, 2024, each producer that offers for  
28 sale, sells, or distributes in or into Washington a covered product  
29 must join a producer responsibility organization that is registered  
30 with the department or register with the department as a producer  
31 responsibility organization. A producer that has not joined a  
32 producer responsibility organization may not sell or supply covered  
33 products in or into Washington.

34 (b) Until the conclusion of the initial plan implementation  
35 period as provided under section 108 of this act, the department must  
36 only accept the registration of a single producer responsibility  
37 organization, other than any producers that register individually as  
38 a producer responsibility organization. Until the conclusion of the  
39 initial plan implementation period, producers of covered products

1 must either join the producer responsibility organization or register  
2 individually as a producer responsibility organization for purposes  
3 of compliance under this section. If applications for more than one  
4 producer responsibility organization are submitted to the department  
5 by July 15, 2024, not counting applications submitted by individual  
6 producers, the department must determine which proposed producer  
7 responsibility organization can most effectively implement this  
8 chapter.

9 (c) If more than one producer responsibility organization is  
10 registered with the department, the producer responsibility  
11 organizations must submit a coordination plan to the department for  
12 approval. If requested by the producer responsibility organizations,  
13 the department may serve as a coordinating body or oversee  
14 coordination of producer responsibility organization plans. The  
15 requirements of this subsection apply to the initial plan period  
16 consisting of a single producer responsibility organization and any  
17 producers registering individually, and subsequent plan periods where  
18 multiple producer responsibility organizations and individual  
19 producers may register with the department.

20 (d) A person who would be determined to be the producer of a  
21 covered product, based on the definition of "producer" as defined in  
22 section 102 of this act, is not required to join a producer  
23 responsibility organization for that covered product if another  
24 person has joined a producer responsibility organization and  
25 registered as the producer responsible for that covered product under  
26 this chapter.

27 (2) A producer responsibility organization that meets the  
28 definition under section 102 of this act that implements or proposes  
29 to implement a plan under this chapter may not include on its board  
30 of directors, or otherwise be governed by, representatives or  
31 affiliates of any public or private entities that submit bids to  
32 perform work for the producer responsibility organization or that  
33 contract with the producer responsibility organization.

34 (3) By July 15, 2024, and each July 15th thereafter, each  
35 producer, through a submission by a producer responsibility  
36 organization, must register with the department. A registration  
37 submission by a producer responsibility organization must include the  
38 following:

39 (a) (i) A list of all their member producers and their brands of  
40 covered products, and members of the board of directors;

1 (ii) If there are changes to the list of member producers and  
2 brands or members of the board of directors by the end of a given  
3 quarter, a producer responsibility organization must submit an  
4 updated list to the department within 30 days of the end of that  
5 quarter.

6 (b) Until a producer responsibility organization begins to submit  
7 annual reports, as specified under section 119 or 209 of this act,  
8 the following data for the prior calendar year:

9 (i) The weight, by material category, of covered products  
10 supplied into the state to consumers;

11 (ii) A description of how the producer responsibility  
12 organization has distinguished and apportioned the quantities of  
13 packaging and paper products sold or supplied to consumers that are  
14 considered covered products under this chapter, from quantities of  
15 packaging and paper products sold or supplied for other uses that are  
16 not considered covered products under this chapter. A producer  
17 responsibility organization may rely on member reporting for this  
18 description. The weight of any covered products that are reusable or  
19 compostable must each be reported separately from the weight of other  
20 types of covered products; and

21 (iii) A list of all member producers and their brands of  
22 postconsumer recycled content products required to meet the  
23 postconsumer recycled content requirements of chapter 70A.--- RCW  
24 (the new chapter created in section 602 of this act).

25 (c) A producer responsibility organization may submit national or  
26 regional data allocated on a per capita basis for Washington to  
27 approximate the information required in this subsection if state-  
28 level data is not available or feasible to generate.

29 (4) By June 30, 2025, and every June 30th thereafter, every  
30 registered producer responsibility organization must submit an annual  
31 payment to the department for the preceding fiscal year, as  
32 determined by the department in section 104 of this act, to fund the:

33 (a) Costs to implement, administer, and enforce this chapter and  
34 chapter 70A.--- RCW (the new chapter created in section 602 of this  
35 act), including rule making;

36 (b) Statewide needs assessment established in section 105 of this  
37 act; and

38 (c) Support and facilitation of the advisory council created in  
39 section 120 of this act.

1 (5) Within six months of the first adoption of rules relating to  
2 this chapter, every registered producer responsibility organization  
3 must submit a plan meeting the requirements of section 107 of this  
4 act to the department for approval consistent with the requirements  
5 of this chapter.

6 (a) A producer responsibility organization registered with the  
7 department as of July 15, 2026, must:

8 (i) Implement its plan as approved by the department by January  
9 1, 2028, or within six months of plan approval, whichever is later;

10 (ii) Submit the annual postconsumer recycled content report to  
11 the department in April for the prior calendar year required in  
12 section 209 of this act; and

13 (iii) Submit an annual report for the prior calendar year to the  
14 department consistent with section 119 of this act by July 1, 2029,  
15 and each July 1st thereafter.

16 (b) A producer responsibility organization registering for the  
17 first time with the department after July 15, 2026, must:

18 (i) Submit the list of producers, brands, board members, data,  
19 and department payment as required in subsections (3) and (4) of this  
20 section;

21 (ii) Submit a plan to the department for approval, informed by a  
22 stakeholder consultation process and consistent with the requirements  
23 of this chapter, within one year of registration;

24 (iii) Submit a new or revised plan within 60 days after receipt  
25 of a letter of disapproval from the department, if applicable;

26 (iv) Implement its plan as approved by the department within six  
27 months of approval;

28 (v) Submit the annual postconsumer recycled content report for  
29 the prior calendar year required in section 209 of this act; and

30 (vi) Submit an annual report for the prior calendar year to the  
31 department consistent with section 119 of this act by July 1st,  
32 beginning the first year after plan implementation.

33 (6) A producer responsibility organization must respond, in  
34 writing, to the advisory council's written comments and  
35 recommendations within 60 days of receipt.

36 NEW SECTION. **Sec. 104.** DEPARTMENT'S DUTIES. (1) The department  
37 must implement, administer, and enforce this chapter. The  
38 department's implementation, administration, and enforcement duties  
39 under this chapter, including the requirements of this section, are

1 supplemented by the provisions of chapter 70A.--- RCW (the new  
2 chapter created in section 602 of this act).

3 (2)(a) By April 1, 2025, and every April 1st thereafter, the  
4 department must:

5 (i) Prepare a workload analysis that identifies the projected  
6 annual costs to implement, administer, and enforce this chapter and  
7 chapter 70A.--- RCW (the new chapter created in section 602 of this  
8 act), including rule making, in the next fiscal year;

9 (ii) Determine a total annual fee payment to be paid by each  
10 producer responsibility organization that is adequate to cover, but  
11 not exceed, the costs identified in (a)(i) of this subsection and the  
12 costs of the:

13 (A) Performance rates study and the statewide needs assessment  
14 established in section 105 of this act; and

15 (B) Support and facilitation of the advisory council created in  
16 section 120 of this act;

17 (iii) Until rules are adopted under (a)(iv) of this subsection,  
18 issue a general order to all registered producer responsibility  
19 organizations. The department must equitably determine fee amounts  
20 for producer responsibility organizations;

21 (iv) By 2026, adopt rules to equitably determine annual fee  
22 payments by producer responsibility organizations. Once these rules  
23 are adopted, the general order issued under (a)(iii) of this  
24 subsection is no longer effective; and

25 (v) Send notice to producer responsibility organizations of fee  
26 amounts due consistent with either the general order issued under  
27 (a)(iii) of this subsection or rules adopted under (a)(iv) of this  
28 subsection.

29 (b) The department must:

30 (i) Apply any remaining annual payment funds from the current  
31 year to the annual payment for the coming fiscal year, if the  
32 collected annual payment exceeds the costs identified under (a)(ii)  
33 of this subsection for a given year; and

34 (ii) Increase annual payments for the coming fiscal year to cover  
35 the costs identified under (a)(ii) of this subsection, if the  
36 collected annual payment was less than the amount required to cover  
37 those costs for a given year.

38 (3) The department must review the performance rates proposed by  
39 producer responsibility organizations as required in section 111 of

1 this act and which must be achieved by the ninth calendar year from  
2 the effective date of this section. The department must:

3 (a) Upon receipt from the producer responsibility organization,  
4 make proposed performance rates available for public review and  
5 comment for at least 30 days;

6 (b) Review proposed performance rates within 90 days of receipt  
7 of a complete submission;

8 (c) Make a determination as to whether or not to approve proposed  
9 performance rates and notify the producer responsibility organization  
10 of the:

11 (i) Determination of approval if the submission meets the  
12 requirements of this chapter, taking into consideration comments  
13 received under (a) of this subsection; or

14 (ii) Reasons for not approving a submission of proposed  
15 performance rates. The producer responsibility organization must  
16 submit new or revised proposed performance rates within 30 days after  
17 receipt of the letter of disapproval.

18 (4) (a) The department must review new, updated, and revised plans  
19 submitted by producer responsibility organizations as required in  
20 section 108 of this act. The department must:

21 (i) Make new, updated, and revised plans available for public  
22 review and comment for at least 30 days prior to the department's  
23 approval decision;

24 (ii) Review new, updated, and revised producer responsibility  
25 organization plans within 120 days of receipt of a complete plan;

26 (iii) Make a determination as to whether or not to approve a  
27 plan, plan update, or plan revision and notify the producer  
28 responsibility organization of the:

29 (A) Determination of approval if a plan provides for a program  
30 that meets the requirements of this chapter, taking into  
31 consideration comments received under (a) (i) of this subsection; or

32 (B) Reasons for not approving a plan. The producer responsibility  
33 organization must submit a new or revised plan within 60 days after  
34 receipt of the letter of disapproval. In the event that a new or  
35 revised plan submitted by a producer responsibility organization does  
36 not sufficiently meet the requirements of this chapter, including any  
37 deficiencies identified in the initial letter of disapproval, the  
38 department may:

39 (I) Use the enforcement powers specified in section 123 of this  
40 act; or



1 (II) Amend the contents of the insufficient new or revised plan  
2 in a manner that ensures that the plan meets the requirements of this  
3 chapter and the department may require the producer responsibility  
4 organization to implement the plan as amended by the department.

5 (b) The approval of a plan by the department does not relieve  
6 producers participating in the plan from responsibility for  
7 fulfilling the requirements of this chapter.

8 (5) The department must review annual reports submitted by  
9 producer responsibility organizations as required in section 119 of  
10 this act and under chapter 70A.--- RCW (the new chapter created in  
11 section 602 of this act). The department must:

12 (a) Make annual reports available for public review and comment  
13 for at least 30 days upon the receipt of the annual report by the  
14 department;

15 (b) Review within 120 days of receipt of a complete annual  
16 report;

17 (c) Make a determination as to whether or not an annual report  
18 meets the requirements of section 119 of this act and notify the  
19 producer responsibility organization of the:

20 (i) Determination of approval of the annual report; or

21 (ii) Reasons for not approving the annual report. The producer  
22 responsibility organization must submit a revised annual report  
23 within 60 days after receipt of the letter of disapproval;

24 (d) Notify a producer responsibility organization if the annual  
25 report demonstrates that the program and activities to implement the  
26 plan fail to achieve the performance rates approved by the department  
27 or otherwise fail to achieve significant requirements under this  
28 chapter.

29 (6) The department must adopt rules as necessary to implement,  
30 administer, and enforce this chapter.

31 (7) Except where otherwise provided in this chapter, the  
32 department shall seek to adopt rules that are harmonized with the  
33 regulatory standards, exemptions, reporting obligations, and other  
34 compliance requirements of other states that:

35 (a) Have adopted producer responsibility programs similar to the  
36 program established in this chapter; and

37 (b) (i) Are home to producers that supply, or have the potential  
38 to supply, significant quantities of covered products to Washington  
39 markets; or

1 (ii) To which Washington supplies, or has the potential to  
2 supply, significant quantities of covered products.

3 (8) The department may by rule require producer responsibility  
4 organizations to fund activities to make convenient collection  
5 services available for recycling of covered products designated for  
6 collection from locations or entities determined to be significant  
7 sources of covered product waste and that are additional to those  
8 locations identified under section 113 of this act. These locations  
9 or entities may include, but are not limited to, public places and  
10 official gatherings at which a local government provides solid waste  
11 services. These locations or entities may not include retail  
12 establishments. Rules adopted under this subsection apply to producer  
13 responsibility organizations no earlier than January 1, 2029, and may  
14 be updated no more frequently than every five years.

15 (9) The department must maintain a public website that:

16 (a) Lists each registered producer responsibility organization  
17 along with its member producers and their covered products that are  
18 included under the producer responsibility organization's plan; and

19 (b) Makes available each plan and annual report received by the  
20 department under this chapter.

21 NEW SECTION. **Sec. 105.** RATE STUDY AND STATEWIDE NEEDS  
22 ASSESSMENT. (1) To inform the implementation of the program, the  
23 department must conduct a performance rates study and a statewide  
24 needs assessment that must be:

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

27 (b) Funded through payments or reimbursements collected from  
28 producer responsibility organizations.

29 (2) (a) The performance rates study must be completed by September  
30 1, 2024, and must:

31 (i) Use the recycling rates from the department's *January 2023*  
32 *Washington Consumer Packaging and Paper Study: Recycling Rate*  
33 *Assessment and Recommendations*;

34 (ii) Use relevant information and recommendations from the  
35 department's 2020 plastic packaging study reports, including:

36 (A) *Plastic Packaging in Washington: Assessing Use, Disposal, and*  
37 *Management*;

38 (B) *Recycled Content Use in Washington: Assessing Demand,*  
39 *Barriers, and Opportunities*;

1 (C) *Successful Plastic Packaging Management Programs and*  
2 *Innovations: Washington Plastic Packaging Management Study;*

3 (D) *Recommendations for Managing Plastic Packaging Waste in*  
4 *Washington;* and

5 (E) *Evaluation, Assessment, and Recommendations for the*  
6 *Responsible Management of Plastic Packaging in Washington;*

7 (iii) Review the performance rates set and achieved in  
8 jurisdictions with producer responsibility programs for packaging or  
9 similar programs and evaluate whether those rates are applicable in  
10 the state;

11 (iv) Recommend performance rates, including:

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

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

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

18 (D) If a distributor responsibility organization under chapter  
19 70A.--- RCW (the new chapter created in section 603 of this act) has  
20 notified the department of its intent to implement a deposit return  
21 system at least six months prior to the date of the completion of a  
22 new or updated performance rates study under this section, alternate  
23 rates as described under (a) (iv) (A) through (C) of this subsection  
24 that exclude qualifying beverage containers that are to be managed  
25 under the deposit return system.

26 (b) Recommendations under (a) of this subsection must consider  
27 the feasibility of achieving recommended rates based on current rates  
28 achieved in the state, rates achieved in other jurisdictions with  
29 similar programs, and additional relevant data. The recommended  
30 performance rates must be designed to be achieved for covered  
31 products statewide by 2032.

32 (c) The advisory council and any producer responsibility  
33 organization that is registered with the department by July 15, 2024,  
34 must have the opportunity to review and comment on a draft  
35 performance rates study prior to its completion.

36 (d) No more frequently than every five years, the department may  
37 update the performance rates study required under this section,  
38 consistent with subsection (1) of this section.

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

1 (a) The final scope of the statewide needs assessment must be  
2 determined after considering comments and recommendations from the  
3 advisory council established in section 120 of this act, from the  
4 utilities and transportation commission, and from any producer  
5 responsibility organization that is registered with the department by  
6 July 15, 2024; and

7 (b) The utilities and transportation commission, the advisory  
8 council created in section 120 of this act, and registered producer  
9 responsibility organizations must have the opportunity to review and  
10 comment on the draft statewide needs assessment 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 the rates  
15 submitted by producer responsibility organizations and approved by  
16 the department under section 111 of this act; and

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

19 (5) The statewide needs assessment must:

20 (a) Evaluate the capacity, costs, gaps, and needs for the  
21 following factors:

22 (i) Availability and types of recycling services for covered  
23 products relative to the convenience standards specified in section  
24 113 of this act and to additional potential service methods  
25 recommended by producer responsibility organizations during the study  
26 scoping process;

27 (ii) Education and outreach activities relative to the standards  
28 specified in section 118 of this act;

29 (iii) Availability and performance of collection, transport, and  
30 processing capacity and infrastructure relative to the management  
31 standards specified in section 110 of this act and the approved  
32 performance rates submitted by producer responsibility organizations,  
33 including consideration of material quality and contamination;

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

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

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

4 (b) Compile information related to actual costs incurred by  
5 government entities, including entities of sparsely populated, remote  
6 areas and dense urban areas, for curbside collection services, drop-  
7 off collection services, and other information relevant to the  
8 funding requirements for producer responsibility organizations in  
9 accordance with section 112 of this act, including costs for various  
10 service methods recommended by producer responsibility organizations  
11 during the study scoping process;

12 (c) Identify cost factors and other variables to be considered in  
13 the development of base cost formulas for establishing per unit  
14 reimbursement rates to government entities for curbside collection  
15 services delivered in accordance with this chapter. Cost factors and  
16 variables to be considered in the base cost formulas include:

17 (i) Population size and density of a local jurisdiction;  
18 (ii) Types of households serviced and collection method used;  
19 (iii) Distance from a local jurisdiction to the nearest recycling  
20 facility;

21 (iv) Whether a jurisdiction pays for transportation and sorting  
22 of collected materials and whether it receives recycled commodity  
23 material revenue from processed materials;

24 (v) Geographic location or other variables contributing to  
25 regional differences in costs, including sparsely populated, remote  
26 areas and dense urban areas;

27 (vi) Cost increases over time; and

28 (vii) Any other factors, recycled commodity material revenue, as  
29 determined to be necessary by the department, with input from  
30 producer responsibility organizations, the advisory council, and the  
31 utilities and transportation commission;

32 (d) Identify cost factors, recycled commodity material revenue,  
33 and other variables to be considered in the development of  
34 reimbursement rates to government entities for any services other  
35 than curbside collection that may be included in producer  
36 responsibility organization plans to be carried out by government  
37 entities;

38 (e) Identify issues to be considered in the development of a  
39 service agreement template outlining terms and conditions for

1 reimbursement to government entities for services delivered in  
2 accordance with the requirements of this chapter;

3 (f) Compile relevant information to be considered in the  
4 development of criteria by the department to determine whether a  
5 covered product is recyclable, reusable, or compostable. The  
6 department may adopt rules establishing criteria for the  
7 determination of whether a covered product is recyclable, reusable,  
8 or compostable. The relevant information to be compiled may include  
9 whether covered product materials are:

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

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

15 (g) Evaluate how the state's recycling system can be managed in a  
16 socially just manner for the purpose of informing how each producer  
17 responsibility organization implementing a plan can support this  
18 objective as it relates to activities required under this chapter.  
19 The assessment must:

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

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

24 (A) An evaluation of recycling processing facility worker  
25 conditions, wages, and benefits;

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

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

30 (D) Identification of activities that disproportionately impact  
31 any community and in particular overburdened communities and  
32 vulnerable populations;

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

35 (F) Recommendations for improving socially just management  
36 practices and outcomes in the state's recycling system, including  
37 considerations for how a producer responsibility organization  
38 implementing a plan can support this objective as it relates to  
39 activities required under this chapter;

1 (h) Evaluate the extent to which covered products contribute to  
2 litter and marine debris for the purpose of informing how a producer  
3 responsibility organization implementing a plan can support litter  
4 and marine debris prevention as it relates to activities required  
5 under this chapter. The assessment should draw on available data,  
6 assess gaps, and identify strategies for improving prevention and  
7 cleanup of litter and marine debris from covered products;

8 (i) Compile information from available data sources on the  
9 presence of toxic substances in covered products and their potential  
10 impacts on reuse, recycling, and composting systems. The information  
11 compiled is intended to inform the development of eco-modulation  
12 factors by a producer responsibility organization that incentivize  
13 the reduction of toxic substances that have potentially negative  
14 impacts when covered products are managed through reuse, recycling,  
15 and home and commercial composting systems.

16 (6)(a) In consultation with the advisory council, the utilities  
17 and transportation commission, and registered producer responsibility  
18 organizations, the department may update the statewide needs  
19 assessment to inform the development of producer responsibility  
20 organization plans, including updates to base cost formulas to be  
21 used for establishing reimbursement rates to government entities for  
22 services delivered in accordance with the requirements of this  
23 chapter. Any updates must include an evaluation of public place  
24 recycling needs prior to the department considering a requirement, by  
25 rule, for public place recycling funding activities under section  
26 104(8) of this act.

27 (b) The scope of a needs assessment or needs assessment update  
28 may be adjusted to modify or omit study elements described under  
29 subsection (3) of this section, after consultation with the advisory  
30 council, the utilities and transportation commission, and any  
31 producer responsibility organization by January 15th of the year in  
32 which the statewide needs assessment update is to be conducted.

33 (c) The scope of a needs assessment update may include an  
34 analysis of the plastic resin market including:

35 (i) Analyzing market conditions and opportunities in the state's  
36 recycling industry for meeting the minimum postconsumer recycled  
37 content requirements for covered products identified in chapter  
38 70A.--- RCW (the new chapter created in section 602 of this act); and

1 (ii) Determining the data needs and tracking opportunities to  
2 increase the transparency and support of a more effective, fact-based  
3 public understanding of the recycling industry.

4 (d) A needs assessment performed prior to January 1, 2029, that  
5 includes an analysis of the plastic resin market as described in (c)  
6 of this subsection is sufficient to satisfy the requirements of RCW  
7 70A.245.060.

8 NEW SECTION. **Sec. 106.** PLAN PARTICIPATION OBLIGATION—  
9 STAKEHOLDER CONSULTATION FOR PLAN. (1) Each producer of covered  
10 products must participate in, implement, and fund a producer  
11 responsibility organization plan approved by the department,  
12 consistent with the timelines established in sections 103 and 108 of  
13 this act, and in accordance with the funding requirements established  
14 in section 112 of this act.

15 (2) A producer responsibility organization that is registered  
16 with the department must develop and maintain a public website with  
17 enhanced language access informing the public of plan implementation  
18 details, including collection services and locations for each type of  
19 covered product, and a current list of all member producers and  
20 brands of covered products participating in the plan.

21 (3) Prior to submitting a new, updated, or revised plan to the  
22 department, a producer responsibility organization must conduct a  
23 consultation process to directly and actively involve stakeholders in  
24 development of key plan elements established in section 107 of this  
25 act. The producer responsibility organization, through the  
26 consultation process, must solicit and respond to input and  
27 recommendations from the advisory council established in section 120  
28 of this act, the utilities and transportation commission, and other  
29 stakeholders. The consultation process required in advance of the  
30 submission of a plan to the department is in addition to the  
31 department-led public comment process specified in section 104(4) of  
32 this act. At a minimum, the consultation process must include:

33 (a) Opportunities for all stakeholders, including the advisory  
34 council, the utilities and transportation commission, and members of  
35 the public to provide comment on the plan for no less than 30 days  
36 prior to its submission to the department; and

37 (b) Documentation of all comments received from the advisory  
38 council and other stakeholders, and summary of responses provided by  
39 the producer responsibility organization for purposes of a



1 stakeholder consultation report to be included with the submission of  
2 a plan to the department. The stakeholder consultation report must  
3 also describe each forum in which comments or input was received and  
4 how it was addressed in the plan.

5 NEW SECTION. **Sec. 107.** PLAN CONTENTS—OVERVIEW. All plans and  
6 plan updates must contain the following information:

7 (1) Identification of the governing board members of the producer  
8 responsibility organization;

9 (2) A list and explanation of the covered products supplied or  
10 sold in or into Washington by each member producer and their brands  
11 of covered products participating in the plan;

12 (3) A description of the structure of the fees owed by producers  
13 to be used to implement the plan, including the eco-modulation of  
14 fees consistent with section 112 of this act;

15 (4) How the producer responsibility organization will encourage  
16 and incentivize waste prevention and reduction of consumer packaging  
17 and paper products and their associated climate impacts;

18 (5) How the producer responsibility organization will encourage  
19 and incentivize redesign of covered products to be reusable,  
20 recyclable, or compostable. Nothing in this chapter requires any  
21 individual producer to redesign covered products to reduce waste or  
22 to be reusable, recyclable, or compostable, or requires any  
23 individual covered product to be reusable, recyclable, or  
24 compostable;

25 (6) How the producer responsibility organization will use and  
26 interact with recycling programs and infrastructure that predate the  
27 implementation of the plan;

28 (7) How the producer responsibility organization will fund reuse  
29 and recycling infrastructure and market development in Washington  
30 state as described in section 117 of this act;

31 (8) How the program will maximize the efficiency of the system of  
32 collecting and managing covered products through reuse and recycling;

33 (9) (a) A list of covered products designated for collection  
34 statewide as required under section 113 of this act;

35 (b) The list required in (a) of this subsection must identify the  
36 covered products designated for collection from residents statewide:

37 (i) Through curbside collection or, where curbside garbage  
38 service is not available, through permanent collection facilities;

39 (ii) Through alternate collection; and

1 (iii) Through public place collection;

2 (c) If the list required in (a) of this subsection includes any  
3 covered product that is not recyclable as defined in section 102 of  
4 this act, the plan must provide a justification for its inclusion on  
5 the list and describe activities to be undertaken to allow the  
6 covered product to meet the definition of recyclable within a  
7 reasonable time frame;

8 (10)(a) A list and description of any covered products that are  
9 compostable and the collection systems and processing infrastructure  
10 and other activities that will be used to ensure responsible  
11 management of compostable covered products;

12 (b) A list and description of covered product reuse and refill  
13 collection systems and processing infrastructure;

14 (11) Activities to be undertaken to make convenient collection  
15 services available for covered products in accordance with the  
16 convenience standards established under section 113 of this act  
17 including, at minimum, the following information:

18 (a) The jurisdictions where curbside collection services are  
19 available or are anticipated to be available upon the implementation  
20 of a plan, including the following service details:

21 (i) Service provider information, including whether the service  
22 provider is a government entity, a private service provider under  
23 contract with a government entity, or a private service provider  
24 regulated by the utilities and transportation commission; and

25 (ii) Service frequency, schedule, collection methods, types of  
26 covered products included, and other pertinent service details,  
27 including whether any changes are anticipated as part of plan  
28 implementation;

29 (b) The locations of permanent collection facilities, the planned  
30 hours in which free and equitable access will be provided, and the  
31 types of covered products to be collected at each location, including  
32 whether any changes are anticipated as part of plan implementation;

33 (c) The types of alternate collection used other than permanent  
34 collection facilities, including detailed descriptions of the  
35 collection methods, any physical infrastructure used, covered  
36 products included, and whether any changes are anticipated as part of  
37 plan implementation; and

38 (d) The locations of public place collection services, covered  
39 products included, and whether any changes are anticipated as part of  
40 plan implementation;

1 (12) Proposed performance rates for covered products reported as  
2 supplied, as described in section 111 of this act, including a  
3 description of the basis and reasoning for the rates proposed;

4 (13) Activities to be undertaken to meet the performance rates;

5 (14) Activities to be undertaken to implement the education and  
6 outreach component as required under section 118 of this act;

7 (15) Activities to facilitate recycling of covered products back  
8 into covered products and encourage development of circular economic  
9 activity in the state and region. The producer responsibility  
10 organization shall provide a description of how the producers would  
11 propose to structure agreements to purchase recycled materials from  
12 material recovery facilities or other processing facilities,  
13 reclaimers, or other end markets to support producers' priority  
14 access to commodities, based on fair market pricing for commodities  
15 of comparable quality and considering long-term contracts and other  
16 purchase arrangements;

17 (16) Activities to be undertaken to minimize the amount and cost  
18 of residuals from the collection and processing of covered materials  
19 designated for collection. These include residuals from materials  
20 recovery facilities or similar facilities producing specification-  
21 grade commodities for sale, but do not include residuals from further  
22 processing of end market-ready material;

23 (17) Activities to be undertaken to develop or support  
24 responsible end markets for covered products;

25 (18) A description of how plan implementation will maintain  
26 responsible management practices for covered products through to  
27 final disposition and ensure that any covered products collected for  
28 recycling will be delivered to a responsible end market as reported  
29 by material recovery facilities under section 110(5) of this act;

30 (19)(a) A description of the base cost formulas to be used to  
31 calculate per unit reimbursement rates for curbside collection  
32 services with similar attributes that are delivered by government  
33 entities in accordance with the requirements of this chapter, whether  
34 such services are provided directly or through a contracted service  
35 provider. If a plan includes more than one base cost formula for  
36 curbside collection services, the producer responsibility  
37 organization must make clear the conditions under which each formula  
38 will be applied;

1 (b) A description of the reimbursement rates to be used for any  
2 services other than curbside collection included in the plan that are  
3 to be carried out by government entities;

4 (c) A description of:

5 (i) How the per unit reimbursement rates cover all obligations  
6 associated with curbside collection services specified in this  
7 chapter and any other services included in the plan that are to be  
8 delivered by government entities;

9 (ii) How reimbursements will be distributed;

10 (iii) Any terms or conditions covered in the service agreements  
11 with government entities for receiving reimbursements, including any  
12 service standards and reporting requirements; and

13 (iv) How the producer responsibility organization will work with  
14 government entities and other stakeholders to achieve successful  
15 implementation of the services for which the producer responsibility  
16 organization provides reimbursement;

17 (d) A template of the service agreement and any other forms,  
18 contracts, or other documents for use in distribution of  
19 reimbursements to government entities and other stakeholders;

20 (e) A description of how the producer responsibility organization  
21 will implement the program in a manner consistent with the  
22 requirements of section 115 of this act;

23 (20) A description of the service standards for residential  
24 curbside collection services provided in areas regulated by the  
25 utilities and transportation commission under the provisions of  
26 chapter 81.77 RCW;

27 (21) Activities to be undertaken to reduce contamination from  
28 covered products at compost or other organic material management  
29 facilities as defined in RCW 70A.205.015, including through  
30 decontamination equipment improvements and conducting packaging  
31 contamination composition studies;

32 (22) A stakeholder consultation report, as described in section  
33 106(3)(b) of this act;

34 (23) A description of a third-party process to resolve disputes  
35 for determining and paying the reasonable costs that arise between a  
36 producer responsibility organization and a government entity or a  
37 recycling service provider;

38 (24) A description of how the producer responsibility  
39 organization will coordinate with other producer responsibility  
40 organizations and any distributor responsibility organizations formed

1 under chapter 70A.--- RCW (the new chapter created in section 603 of  
2 this act) in the state, in specific terms if more than one producer  
3 responsibility organization or distributor responsibility  
4 organization is registered with the department as of the date of a  
5 plan's submission, and in general terms addressing coordination  
6 priorities to ensure the smooth implementation of this chapter in the  
7 event an additional plan or plans become registered with the  
8 department during the period of plan implementation;

9 (25) A list of the material categories if distinguished or  
10 additional to the material categories identified in section 102(18)  
11 (a) through (g) of this act;

12 (26) The contingency plan described in section 109 of this act;  
13 and

14 (27) Any other information to be included in the plan as required  
15 by the department by rule.

16 NEW SECTION. **Sec. 108.** PLAN APPROVAL, UPDATES, AND REVISIONS.

17 (1)(a) The initial plan due to be submitted under section 103(5) of  
18 this act, and updated plans, may address no more than five calendar  
19 years.

20 (b) A producer responsibility organization must submit to the  
21 department, one year prior to the expiration of any plan, an updated  
22 plan for the following five calendar years of operation to address  
23 changes in the operations and activities of the program. Updated  
24 plans must be designed to begin from the date on which the existing  
25 plan is expected to cease to be in effect.

26 (c) If the performance rates set in a producer responsibility  
27 organization plan as described in section 111 of this act have not  
28 been met as of the time of plan update, the producer responsibility  
29 organization must arrange for an independent evaluation to be  
30 conducted of the producer responsibility organization's efforts to  
31 implement the plan approved by the department. The evaluation must  
32 provide information for the producer responsibility organization to  
33 use to target and improve program outcomes relative to the proposed  
34 and approved performance rates.

35 (d) A producer responsibility organization must carry out the  
36 consultation process established in section 106 of this act prior to  
37 the submission of each plan and plan update. The consultation process  
38 established in section 106 of this act is not required to be carried

1 out by a producer responsibility organization that is submitting a  
2 revised plan:

3 (i) In response to an order from the department; or

4 (ii) Subsequent to a letter disapproving of a plan submission by  
5 the producer responsibility organization and for which the original  
6 plan submitted by the producer responsibility organization had been  
7 subject to the consultation process required in section 106 of this  
8 act.

9 (2)(a) A producer responsibility organization may choose to  
10 update its plan if significant changes have occurred.

11 (b) The department may require a producer responsibility  
12 organization to update its plan more frequently than every five years  
13 if:

14 (i) The program and activities to implement the plan fail to  
15 achieve the performance rates set in producer responsibility  
16 organization plans as described in section 111 of this act or  
17 otherwise fail to achieve significant requirements under this  
18 chapter;

19 (ii) Additional producer responsibility organizations register  
20 with the department or receive approval from the department to begin  
21 implementing a plan; or

22 (iii) There are significant changes to the regulatory or economic  
23 environment in which plan activities are being carried out.

24 NEW SECTION. **Sec. 109.** CONTINGENCY PLAN. (1) A producer  
25 responsibility organization must submit to the department a  
26 comprehensive contingency plan demonstrating how the activities in  
27 the plan will continue to be carried out by some other entity, if  
28 needed, such as an escrow company:

29 (a) Until such time as a new plan is submitted and approved by  
30 the department;

31 (b) Upon the expiration of an approved plan;

32 (c) In the event that the producer responsibility organization  
33 has been notified by the department that they must transfer  
34 implementation responsibility for the program to a different producer  
35 responsibility organization;

36 (d) In the event that the producer responsibility organization  
37 notifies the department that it will cease to implement an approved  
38 plan; or

1 (e) In any other event that the producer responsibility  
2 organization can no longer carry out plan implementation.

3 (2) The contingency plan required in this section must be  
4 submitted to the department as a component of the producer  
5 responsibility organization's initial plan submitted to the  
6 department under section 103(5) of this act. The department may  
7 require a producer responsibility organization to update the  
8 contingency plan required under this section coincident with any plan  
9 update under section 108 of this act.

10 (3) The department must follow the same process and timelines for  
11 reviewing and approving the contingency plan as it follows for  
12 reviewing and approving the producer responsibility organization's  
13 program plan under section 108 of this act.

14 NEW SECTION. **Sec. 110.** COLLECTION AND MANAGEMENT. (1) Producer  
15 responsibility organizations, government entities, and service  
16 providers implementing the program must manage covered products in a  
17 manner consistent with the state's solid waste management hierarchy  
18 established in RCW 70A.205.005.

19 (2) Covered products collected by the program must be responsibly  
20 managed at facilities operating with human health and environmental  
21 protection standards that are broadly equivalent to or better than  
22 those required in the United States and other countries that are  
23 members of the organization for economic cooperation and development.

24 (3) Producer responsibility organizations implementing a plan  
25 must include measures to:

26 (a) Track, verify, and publicly report that the responsible  
27 management of covered products collected by the program is maintained  
28 and that recycled materials are delivered to a responsible end  
29 market;

30 (b) Promote and facilitate reuse of covered products designed to  
31 be reused;

32 (c) Meet the necessary quality standards for recycled materials  
33 so that covered products collected by the program may be used to  
34 manufacture new products;

35 (d)(i) Document the locations of all material recovery facilities  
36 and other processing facilities used to meet the requirements of this  
37 chapter, whether within Washington, elsewhere in North America, or  
38 outside of North America; and

1 (ii) Describe whether the processing facilities were preexisting,  
2 planned, or under construction as of plan approval.

3 (4) (a) Prior to program use of any alternative recycling process  
4 for conversion of postuse plastic polymers for the purpose of  
5 producing recycled material to be counted toward performance rates  
6 under this chapter, the producer responsibility organization must  
7 seek the department's approval and submit a third-party assessment of  
8 the process's environmental impacts, as described under this  
9 subsection. In order for an alternative recycling process to be  
10 approved, the department must determine, after considering public  
11 comment and input from the advisory council, that the alternative  
12 recycling process produces similar or lesser impacts than those  
13 produced in recycling that uses purely mechanical means for each of  
14 the following environmental impacts:

15 (i) Air and water pollution and release or creation of any  
16 hazardous pollutants;

17 (ii) Energy efficiency and greenhouse gas emissions;

18 (iii) Generation of hazardous waste;

19 (iv) Environmental impacts on overburdened communities and  
20 vulnerable populations;

21 (v) Water usage including, but not limited to, impacts to local  
22 water resources and sewage infrastructure; and

23 (vi) Other environmental impacts as determined by the department  
24 by rule.

25 (b) The results of the assessment under (a) of this subsection  
26 must, whenever reported and communicated, provide full disclosure of  
27 geographical, temporal, and technological boundaries that have been  
28 selected for the assessment.

29 (c) The person preparing the assessment under (a) of this  
30 subsection may not be interested, directly or indirectly, in the  
31 ownership or operation of any recycling facility proposed to conduct  
32 the alternative recycling process under assessment.

33 (5) (a) Material recovery facilities and other processing  
34 facilities receiving covered products from government entities or  
35 private service providers collected through activities undertaken in  
36 accordance with this chapter must measure and report annually to the  
37 department by commodity type and material category, in a form and  
38 format approved by the department, on the following parameters  
39 associated with covered products and qualifying beverage containers



1 subject to the provisions of chapter 70A.--- RCW (the new chapter  
2 created in section 603 of this act) received and processed:

3 (i) Tons received, by jurisdiction and service provider;

4 (ii) Inbound material quality and contamination;

5 (iii) Outbound material quality and contamination;

6 (iv) Outbound material tons and end markets by commodity type,  
7 including whether the end markets are domestic, export to  
8 organization for economic cooperation and development countries, or  
9 export to facilities in other countries that meet organization for  
10 economic cooperation and development operating standards;

11 (v) Management of contaminants and residue to avoid impacts on  
12 other waste streams or facilities;

13 (vi) Residuals, including residue rate, composition, and disposal  
14 location;

15 (vii) Emission of pollutants to air and water, or other  
16 activities that impact public health or the environment, including  
17 any reporting required under existing permits where applicable; and

18 (viii) Labor metrics including, but not limited to, wages,  
19 unions, and workforce demographics.

20 (b) All data reported to the department by material recovery  
21 facilities and other processing facilities under this subsection must  
22 be verified by an independent third party and shared with each  
23 producer responsibility organization for which the material recovery  
24 facility provides a service.

25 (c) The requirements of (a) and (b) of this subsection do not  
26 apply to any facility operated by a scrap metal business as defined  
27 in RCW 19.290.010 that holds a current scrap metal license unless the  
28 covered products handled by such a business were received directly  
29 from collection services for which a producer responsibility  
30 organization has provided reimbursement.

31 (6) To facilitate recycling of covered products back into covered  
32 products and encourage development of circular economic activity in  
33 the state and region, material recovery facilities and other  
34 processing facilities handling materials under the program shall  
35 prioritize agreements with and on behalf of producers or producer  
36 responsibility organizations regarding long-term contracts and other  
37 purchase agreements based on fair market pricing for commodities of  
38 comparable quality.

1        NEW SECTION.    **Sec. 111.**    PERFORMANCE RATES. (1) By January 1,  
2 2025, any registered producer responsibility organization must submit  
3 to the department proposed performance rates for covered products  
4 reported by the producer responsibility organization as supplied into  
5 the state to be achieved by the ninth calendar year from the  
6 effective date of this section. In proposing rates, the producer  
7 responsibility organization must:

8        (a) Consider the rates recommended in the performance rates  
9 study;

10        (b) Propose, at minimum:

11        (i) An overall combined reuse and recycling rate of covered  
12 products;

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

15        (iii) A source reduction rate to be achieved solely by  
16 eliminating plastic components;

17        (c) Provide a justification for the rates proposed, if they are  
18 different from those recommended in the performance rates study; and

19        (d) Adhere to the performance rate calculation methodology  
20 established in subsections (3), (4), and (5) of this section.

21        (2) Any producer responsibility organization plan submitted to  
22 the department must include rates for covered products reported by  
23 the producer responsibility organization as supplied into the state,  
24 taking into account the findings of the performance rates study,  
25 statewide needs assessment, and additional relevant data. The rates  
26 submitted by a producer responsibility organization must be achieved  
27 by the end of the plan implementation period.

28        (a) At minimum, the plan must include:

29        (i) An overall combined reuse and recycling rate of covered  
30 products;

31        (ii) A separate minimum reuse rate of covered products, which is  
32 also to be counted within the overall combined reuse and recycling  
33 rate;

34        (iii) A combined reuse and recycling rate for each material  
35 category of covered products reported by the producer responsibility  
36 organization as supplied into the state; and

37        (iv) A source reduction rate to be achieved solely by eliminating  
38 plastic components.

39        (b) Proposed rates must demonstrate continuous improvement in  
40 performance rates of covered products over time.

1 (c) Proposed rates must adhere to the performance rate  
2 calculation methodology established in subsections (3), (4), and (5)  
3 of this section.

4 (d) Any plan submitted to the department prior to the ninth  
5 calendar year from the effective date of this section must also  
6 include performance rates to be achieved by the ninth calendar year  
7 from the effective date of this section. If the rates differ from  
8 those previously approved by the department as required under  
9 subsection (1) of this section, the producer responsibility  
10 organization must provide a justification for the proposed  
11 adjustment.

12 (3) For the purposes of this chapter, the department must adopt  
13 rules for measuring the performance rates of each material category  
14 of covered products included in a producer responsibility  
15 organization plan.

16 (4) To be included in a performance rate calculation for purposes  
17 of this chapter, recycled materials must be transferred to a  
18 responsible end market.

19 (5) For purposes of calculations of reuse and elimination under  
20 this section, a producer responsibility organization must include  
21 both the weight and number of units.

22 NEW SECTION. **Sec. 112.** FUNDING REQUIREMENTS. (1) A producer  
23 responsibility organization implementing a plan must fully fund all  
24 activities required under this chapter.

25 (2) A nonreimbursable point-of-sale fee may not be charged to  
26 consumers to recoup the costs of meeting producer obligations under  
27 this chapter.

28 (3)(a) A producer responsibility organization must develop a  
29 system to collect fees from participating producers to cover the  
30 costs of plan implementation. To minimize the administrative and  
31 reporting costs of the producers and the organization, the fee system  
32 must include:

33 (i) A de minimis level in which no fees are charged by the  
34 producer responsibility organization, determined by weight of covered  
35 products sold into the state;

36 (ii) Additional charges applied specifically to producers of  
37 postconsumer recycled content products covered by the requirements of  
38 chapter 70A.--- RCW (the new chapter created in section 602 of this  
39 act), in an amount roughly equivalent to fully cover the producer

1 responsibility organization's costs of implementing its duties under  
2 chapter 70A.--- RCW (the new chapter created in section 602 of this  
3 act), including funding the oversight of the department; and

4 (iii) An optional flat rate for producers below a certain size.

5 (b) A producer responsibility organization shall allow producers  
6 of covered products that are magazines to satisfy their obligations  
7 under this section by providing advertisement or publication  
8 supporting the education and outreach activities required under  
9 section 118 of this act in their magazines, or on their websites in  
10 lieu of program fees as long as the value of the advertisement is  
11 equivalent to the estimated cost of managing the covered products  
12 that are magazines, which are to be determined as described in  
13 subsection (4) of this section. The producer responsibility  
14 organization may consider the in-state reach of the advertising when  
15 determining the value of the advertising.

16 (4) A producer responsibility organization must base the system  
17 of fees assessed to producers upon the estimated cost of managing the  
18 material categories of covered products, while seeking to avoid a  
19 material category that subsidizes any other material category. In  
20 establishing a system of fees, a producer responsibility organization  
21 must consider the following factors:

22 (a) The total annual amount of covered products sold or supplied  
23 into the state, by material category, whether or not the material is  
24 currently recyclable or designated for collection for recycling;

25 (b) The material characteristics and the costs associated with  
26 the management of each material category; and

27 (c) The commodity value of each material category as a recycled  
28 material.

29 (5)(a) The fee system must use eco-modulation factors to  
30 incentivize the use of packaging design attributes that reduce the  
31 environmental impacts of covered products. Examples of activities  
32 that a fee system may include to satisfy the requirement to use eco-  
33 modulation factors include, but are not limited to:

34 (i) Encourage designs that facilitate and improve infrastructure  
35 and systems for reuse, recycling, and home and industrial composting,  
36 and that achieve reuse, recycling, and home and industrial  
37 composting;

38 (ii) Encourage the use of postconsumer recycled content;

39 (iii) Encourage designs that reduce the amount of packaging  
40 material used;

1 (iv) Discourage the use of problematic or difficult to recycle  
2 materials that increase system costs of managing covered products;  
3 and

4 (v) Encourage other design attributes that reduce the  
5 environmental impacts of covered products.

6 (b) Any system of program fees under this section that includes  
7 discounted fees or favorable treatment of covered products deemed to  
8 be reusable must establish a basis for determining that products, in  
9 practice, are designed and supported by adequate infrastructure to  
10 ensure they are reused multiple times as part of a system of reuse.

11 (c) Fees collected under this fee system must be used exclusively  
12 for plan implementation and other activities required under this  
13 chapter and chapter 70A.--- RCW (the new chapter created in section  
14 602 of this act).

15 (6) If more than one producer responsibility organization is  
16 registered within the state, each producer responsibility  
17 organization must coordinate with other producer responsibility  
18 organizations to provide reimbursement and ensure that government  
19 entities and service providers are reimbursed for recycling services  
20 as required under this chapter, and to ensure that covered products  
21 are not reported as supplied or managed by more than one producer  
22 responsibility organization.

23 NEW SECTION. **Sec. 113.** CONVENIENCE STANDARDS. (1) In every  
24 jurisdiction in which covered products are sold or supplied to  
25 consumers, a producer responsibility organization must fund  
26 activities to make convenient collection services available for the  
27 full list of covered products designated for collection in the plan.  
28 Convenient collection services must be available to residents as  
29 follows:

30 (a) Curbside collection must be provided to residents in single-  
31 family and multifamily residences wherever curbside garbage  
32 collection services are provided to these entities, except in areas  
33 where a county has adopted an ordinance after the effective date of  
34 this section that designates that covered products must be collected  
35 exclusively through alternate collection, and except for covered  
36 products designated for alternate collection under a producer  
37 responsibility organization plan.

38 (b) (i) In jurisdictions without curbside garbage collection, and  
39 in all areas for covered products designated for alternate

1 collection, free and equitable access to permanent collection  
2 facilities must be provided that are located, at minimum, at:

3 (A) Each solid waste transfer, processing, or disposal site, or  
4 other drop-off location, or a location demonstrated to the department  
5 to be of equal convenience, as it existed prior to the effective date  
6 of this section; and

7 (B) Additional drop-off locations or collection events in  
8 communities that are not covered by a collection location described  
9 in (b) (i) (A) of this subsection. A producer responsibility  
10 organization, after soliciting and accommodating input from the  
11 department, the relevant government entity, and the local community,  
12 must determine a reasonable number and location of additional drop-  
13 off locations or frequency and location of collection events to be  
14 held in underserved areas. A producer responsibility organization  
15 must give special consideration for providing opportunities to island  
16 and geographically isolated populations.

17 (ii) A retail establishment may choose to serve as a drop-off  
18 location or as the site of a collection event, or both, through  
19 mutual agreement with a producer responsibility organization, but  
20 nothing in this chapter requires a retail establishment to serve as a  
21 drop-off location or site of a collection event.

22 (c) For the duration of the initial plan implementation term,  
23 collection must be provided in public places:

24 (i) Any location where government entities provided and managed  
25 recycling collection receptacles as of July 1, 2023. The number and  
26 location of receptacles may be adjusted to optimize collection based  
27 on mutual agreement between the producer responsibility organization  
28 and the government entity providing the service; and

29 (ii) At additional locations as determined by the producer  
30 responsibility organization, after considering the recommendations of  
31 the statewide needs assessment in section 105 of this act and  
32 stakeholder consultation in section 106 of this act. Collection in  
33 additional locations is subject to mutual agreement by the producer  
34 responsibility organization and the government entity or other entity  
35 responsible for the public place.

36 (2) In any jurisdiction where collection of source separated  
37 recyclable materials from residences is provided by a city or town  
38 under the authority of RCW 35.21.120, by a county under the authority  
39 of RCW 36.58.040, or by a company that holds an applicable  
40 certificate under the authority of chapter 81.77 RCW, a producer

1 responsibility organization must meet its curbside collection service  
2 obligation through the curbside collection service in the  
3 jurisdiction as described in section 114 of this act.

4 (3) (a) A producer responsibility organization must, in its plan,  
5 establish a statewide list of covered products designated for  
6 collection.

7 (b) If more than one producer responsibility organization is  
8 registered with the department, each producer responsibility  
9 organization must coordinate with other producer responsibility  
10 organizations to establish and annually update in a coordinated  
11 submission to the department the statewide list of covered products  
12 designated for collection.

13 (4) Every producer responsibility organization must identify in  
14 its plan and on its website, in appropriate languages, maps of each  
15 area where curbside and alternative collection services for covered  
16 products are available, a list and map of the location of each  
17 permanent collection opportunity for covered products, the types and  
18 a list and map of locations of alternate collection methods used, and  
19 a list and map of the locations of public place collection services  
20 for covered products.

21 NEW SECTION. **Sec. 114.** GOVERNMENT ENTITIES—AUTHORITY TO COLLECT  
22 COVERED PRODUCTS. (1) The provisions of this chapter do not:

23 (a) Obligate a county, city, or town that utilizes its contract  
24 authority under RCW 35.21.120 or 36.58.040 for collection of source  
25 separated recyclable materials from residents or a city or town that  
26 undertakes collection of source separated recyclable materials from  
27 residents to participate in a plan implemented by a producer  
28 responsibility organization;

29 (b) Restrict the authority of a city under RCW 35.21.120,  
30 35.21.130, and 35.21.152; or

31 (c) Restrict the authority of a county under RCW 36.58.040.

32 (2) (a) A city, town, county, or other government entity may enter  
33 into contractual agreements with a producer responsibility  
34 organization or organizations for the purposes of reimbursement of  
35 costs of services provided in accordance with the requirements of  
36 this chapter.

37 (b) A producer responsibility organization must reimburse the  
38 government entity for services delivered in accordance with the  
39 requirements of this chapter as described in section 115 of this act.

1 (c) A government entity is not restricted from including  
2 additional materials in curbside or noncurbside collection that are  
3 not part of the statewide list of covered products designated for  
4 collection, but a producer responsibility organization is not  
5 obligated to reimburse costs associated with the additional  
6 materials.

7 (3) Consistent with RCW 81.77.020, where a city or town chooses  
8 not to exercise its authority under chapter 35.21 RCW, or a county  
9 chooses not to exercise its authority under chapter 36.58 RCW,  
10 curbside collection of covered products designated for collection as  
11 source separated recyclable materials from residences in areas  
12 regulated by the utilities and transportation commission under the  
13 provisions of chapter 81.77 RCW must be provided by a company that  
14 holds an applicable certificate issued by the utilities and  
15 transportation commission.

16 (4) A county may, by ordinance, direct that covered products  
17 designated for collection by a producer responsibility organization  
18 plan be collected exclusively through alternate collection in areas  
19 regulated by the utilities and transportation commission under the  
20 provisions of chapter 81.77 RCW if the area was designated as rural  
21 in the county solid waste management plan and no curbside recycling  
22 collection service was offered within those areas as of the effective  
23 date of this section.

24 (5) Government entities are not obligated to provide resident  
25 education and outreach under this chapter but may carry out or  
26 contract for resident education and outreach consistent with producer  
27 responsibility organization plan provisions under section 118 of this  
28 act and be reimbursed for the costs of education and outreach  
29 performed by the government entity as described in section 115 of  
30 this act.

31 (6) A city, town, or county may not enact an ordinance requiring  
32 producers of covered products to provide residential recycling  
33 services for covered products that are additional to the requirements  
34 of this chapter unless producers are not required to fully fund the  
35 requirements of this chapter under section 112 of this act.

36 NEW SECTION. **Sec. 115.** COST REIMBURSEMENT FOR SERVICES PROVIDED  
37 BY GOVERNMENT ENTITIES. (1) A producer responsibility organization  
38 with covered products designated for curbside collection under its  
39 plan must provide reimbursement to a government entity that chooses



1 to seek reimbursement for costs incurred in delivering curbside  
2 collection services, whether these services are provided directly or  
3 through a contracted service provider, or both. Costs that must be  
4 reimbursed by a producer responsibility organization include, as  
5 applicable, any administrative, public education, collection,  
6 transportation, and sorting or processing costs incurred in  
7 delivering curbside collection services in accordance with the  
8 requirements of this chapter. Reimbursements for curbside collection  
9 services must be calculated using base cost formulas established in  
10 the producer responsibility organization plan approved by the  
11 department.

12 (2) If a producer responsibility organization elects to use the  
13 services of a government entity for any services included in the  
14 producer responsibility organization plan other than curbside  
15 collection services, it must provide reimbursement to the government  
16 entity. Reimbursement for any services other than curbside collection  
17 services may be calculated using reimbursement rates established for  
18 noncurbside collection services in the producer responsibility  
19 organization plan approved by the department.

20 (3) Any government entity that receives reimbursement for costs  
21 incurred in delivering curbside collection services must report or  
22 publish reimbursed costs to its residents annually and as part of  
23 each rate increase notification required under RCW 35.21.157.

24 NEW SECTION. **Sec. 116.** COST REIMBURSEMENT FOR SERVICES  
25 REGULATED BY THE UTILITIES AND TRANSPORTATION COMMISSION. In areas  
26 where collection of source separated recyclable materials from  
27 residences is regulated by the utilities and transportation  
28 commission under chapter 81.77 RCW, a producer responsibility  
29 organization must provide reimbursement to the company granted a  
30 certificate to provide the service in accordance with the rates  
31 approved by the commission, including all associated taxes and fees  
32 that would be otherwise charged to residential customers directly or  
33 indirectly for recycling service. To be eligible for reimbursement  
34 from a producer responsibility organization under this section, the  
35 company granted a certificate must provide service that:

- 36 (1) Is offered to residents in single-family and multifamily  
37 residences wherever curbside garbage collection services are offered;  
38 (2) Includes collection of all covered products designated for  
39 curbside collection;

1 (3) Aligns with service standards for curbside collection  
2 established by the producer responsibility organization plan under  
3 section 107 of this act; and

4 (4) Is provided in a manner consistent with the requirements of  
5 this chapter for curbside collection services.

6 NEW SECTION. **Sec. 117.** INFRASTRUCTURE INVESTMENTS. (1) Each  
7 producer responsibility organization must fund and support  
8 investments in infrastructure and market development in Washington  
9 state as needed to achieve the convenience standards specified in  
10 section 113 of this act, the management standards specified in  
11 section 110 of this act, the performance rates set in producer  
12 responsibility organization plans as described in section 111 of this  
13 act, or to address infrastructure gaps, as identified through the  
14 statewide needs assessment under section 105 of this act and through  
15 the consultation process under section 106 of this act. Investments  
16 in infrastructure and market development may include, but are not  
17 limited to, those needed to enable reuse of covered products or the  
18 recycling or composting of covered products not currently recycled or  
19 composted in the residential recycling system, such as:

20 (a) Installing or upgrading equipment to improve sorting of  
21 covered products or mitigating the impacts of covered products to  
22 other commodities at existing sorting and processing facilities; and

23 (b) Capital expenditures for new technology, equipment, and  
24 facilities.

25 (2) Investments must be detailed in the annual report submitted  
26 to the department in the manner specified in section 119 of this act.  
27 In meeting the requirements of this section, a producer  
28 responsibility organization must prioritize investments in  
29 preexisting infrastructure within Washington state. If a producer  
30 responsibility organization did not invest in preexisting  
31 infrastructure within Washington state, the annual report must  
32 include a statement of the reasons why no such investment was made.

33 NEW SECTION. **Sec. 118.** EDUCATION AND OUTREACH. (1) Each plan  
34 implemented by a producer responsibility organization under this  
35 chapter must include education and outreach activities that  
36 effectively reach diverse residents, are accessible, are clear, and  
37 support the achievement of the performance rates set in producer  
38 responsibility organization plans as described in section 111 of this

1 act. To implement the education and outreach activities described in  
2 the plan, a producer responsibility organization must, at minimum:

3 (a) Develop and provide outreach and educational materials,  
4 resources, and campaigns about the program to be used by retail  
5 establishments, collectors, government entities, and nonprofit  
6 organizations. The materials, resources, and campaigns developed  
7 under this section must encourage participation in recycling  
8 collection and reuse and refill systems and must achieve:

9 (i) Education and engagement with residents on recycling, reuse,  
10 and refill behaviors;

11 (ii) Outreach to obtain consistently high levels of public  
12 participation in and use of collection services and reuse and refill  
13 systems, including where and how to recycle covered products  
14 designated for collection, or return or refill reusable covered  
15 products; and

16 (iii) Education and engagement to reduce the rate of inbound  
17 contamination or unwanted materials;

18 (b) Coordinate and fund the distribution and deployment of  
19 statewide promotional campaigns developed under this section through  
20 media channels that may include, but are not limited to, print  
21 publications, radio, television, the internet, and online streaming  
22 services;

23 (c) Use consistent and easy to understand messaging and education  
24 statewide, with the aim of reducing resident confusion regarding the  
25 recyclability, reuse, compostability, and end-of-life management  
26 options available for different covered products;

27 (d) Be conceptually, linguistically, and culturally accurate for  
28 the communities served and tailored to effectively reach the state's  
29 diverse populations, including through meaningful consultation with  
30 overburdened communities and vulnerable populations;

31 (e) Establish a process for answering customer questions and  
32 resolving customer concerns; and

33 (f) Evaluate the effectiveness of education and outreach efforts  
34 for the purposes of making progress toward performance requirements  
35 established in this chapter.

36 (2)(a) A producer responsibility organization must coordinate  
37 with government entities that choose to participate in carrying out  
38 resident education and outreach in accordance with the approach  
39 specified in the producer responsibility organization's plan.

1 (b) All producer responsibility organizations implementing a plan  
2 approved by the department must collaborate to present a consistent  
3 statewide program to ensure that all state residents can easily  
4 identify, understand, and access services provided by any approved  
5 producer responsibility organization. The department may require  
6 producer responsibility organizations to coordinate and use  
7 consistent signage and consistent messaging in education and outreach  
8 activities under this section.

9 NEW SECTION. **Sec. 119.** ANNUAL REPORTING ON ACTIVITIES. (1)  
10 Beginning July 1, 2028, and each July 1st thereafter, each producer  
11 responsibility organization must submit an annual report to the  
12 department for the preceding calendar year of plan implementation.  
13 Each annual report must include data, descriptions, and other  
14 information sufficient to allow the department to determine whether a  
15 producer responsibility organization has fulfilled its obligations  
16 under this chapter during the preceding calendar year, including  
17 actions identified by the producer responsibility organization to be  
18 undertaken as part of the plan submitted under section 107 of this  
19 act, and actions to implement the requirements and other provisions  
20 of this chapter including, but not limited to, sections 110 through  
21 118 of this act.

22 (2) In addition to the data, descriptions, and information  
23 specified in subsection (1) of this section, each annual report must  
24 include the following:

25 (a) Identification of the governing board members of the producer  
26 responsibility organization;

27 (b) The final destinations of recycled material managed by the  
28 program as reported by material recovery facilities under section  
29 110(5) of this act, including:

30 (i) Names and locations of end users or reprocessors that  
31 received recycled material managed by the program, by material  
32 category; and

33 (ii) Descriptions of material categories managed by the program  
34 that were sold or supplied to the end users or reprocessors; and

35 (c) The total cost of implementing the plan approved by the  
36 department, as determined by an independent financial audit and  
37 performed by an independent auditor, including:

38 (i) Information regarding the independently audited financial  
39 statements detailing all payments received and issued by the producer

1 responsibility organization covered by the plan approved by the  
2 department;

3 (ii) A copy of the independent audit; and

4 (iii) A detailed description of how the program compensates  
5 government entities, private collection and transportation service  
6 providers, sorting and processing facilities, and other approved  
7 entities for services under chapters 70A.--- (the new chapter created  
8 in section 601 of this act), 70A.--- (the new chapter created in  
9 section 602 of this act), and 70A.--- RCW (the new chapter created in  
10 section 603 of this act).

11 (3)(a) Prior to the submission of the annual report, all  
12 nonfinancial data and information that is material to the  
13 department's review of the program's compliance with the requirements  
14 of this chapter must be audited annually by a third party that is a  
15 nationally recognized, independent laboratory or certification body  
16 that has received ISO/IEC 17065 accreditation as it existed as of  
17 January 1, 2023, or a similar accreditation as determined by the  
18 department.

19 (b) Annual independent auditing and verification must:

20 (i) Include documentation of the performance rate calculations;  
21 and

22 (ii) Encompass the management of materials from the point of  
23 collection through processing and sale of recycled materials to  
24 responsible end markets.

25 NEW SECTION. **Sec. 120.** ADVISORY COUNCIL. (1) The advisory  
26 council is established.

27 (2) The advisory council consists of members appointed by the  
28 department as follows:

29 (a) Four representatives of local governments representing  
30 geographic areas across the state, including two representatives of  
31 counties and two representatives of cities, each with one  
32 representative of urban communities and one representative of rural  
33 communities;

34 (b) One representative of tribal or indigenous solid waste  
35 services organizations;

36 (c) One representative of special purpose districts involved in  
37 activities related to the end-of-life management of solid waste;

1 (d) Two representatives of community-based organizations whose  
2 mission is to serve the interests of overburdened communities and  
3 vulnerable populations;

4 (e) Two representatives of environmental nonprofit organizations;

5 (f) One owner or operator of a small business that is not  
6 eligible for representation under (g), (h), or (i) of this  
7 subsection;

8 (g) Six representatives of the recycling industry, including  
9 local governments' service providers, solid waste collection  
10 companies or associations, material recovery facilities, or other  
11 processing facilities;

12 (h) Three representatives of producers of covered products or  
13 producer trade associations representing different types of covered  
14 products. A member appointed to the council under this subsection may  
15 not be a representative or a member of the board of directors of a  
16 producer responsibility organization registered with the department  
17 under section 103 of this act;

18 (i) Two representatives of packaging suppliers that are not  
19 producers as defined under this chapter representing different  
20 material categories; and

21 (j) One representative of a retail establishment.

22 (3) Advisory councilmembers must be appointed by the director of  
23 the department by January 1, 2024. In appointing members, the  
24 department shall:

25 (a) Appoint members that, to the greatest extent practicable,  
26 represent diversity in race, ethnicity, age, and gender, urban and  
27 rural areas, and different regions of the state;

28 (b) Consider recommendations for appointments from relevant  
29 represented groups or associations and from individuals interested in  
30 participating on the advisory council.

31 (4)(a) The terms of initial appointments must be staggered to two  
32 and three-year appointments, with subsequent terms of three years.  
33 Members are eligible for reappointment.

34 (b) If there is a vacancy for any reason, the department shall  
35 make an appointment to become effective immediately for the unexpired  
36 term.

37 (5)(a) The advisory council shall elect one of its members to  
38 serve as chairperson and another to serve as vice chairperson, for  
39 the terms and with the duties and powers necessary for the  
40 performance of the functions of such offices as the advisory council

1 determines. The chairperson and vice chairperson may not both be  
2 members appointed under the same subsection of subsection (2)(a)  
3 through (i) of this section.

4 (b) The advisory council may adopt bylaws and a charter for the  
5 operation of its business for the purposes of this chapter.

6 (6) The advisory council shall meet at least once every three  
7 months for the first three years, at times and places specified by  
8 the chairperson. The advisory council may also meet at other times  
9 and places, including virtually, specified by the call of the  
10 chairperson or of a majority of the councilmembers, as necessary, to  
11 carry out the duties of the advisory council.

12 (7)(a) The department shall provide staff support and  
13 facilitation as necessary for the advisory council to carry out its  
14 duties.

15 (b) The department may select an impartial, third-party  
16 facilitator to convene and provide administrative support to the  
17 advisory council.

18 (8) The duties of the advisory council include the following:

19 (a) Advise and make recommendations to the department on the  
20 scope of the statewide needs assessments;

21 (b) Review and comment on a draft performance rate study and on a  
22 draft statewide needs assessment prior to their completion;

23 (c) Advise and make recommendations to any registered producer  
24 responsibility organization during stakeholder consultation on plans  
25 as required under section 106 of this act;

26 (d) Review and comment on all new and updated plans submitted by  
27 producer responsibility organizations to the department, including  
28 making recommendations to the department on plan approvals, as part  
29 of the public comment period as established under section 104 of this  
30 act;

31 (e) Advise and make recommendations to any registered producer  
32 responsibility organization on annual reports prior to submission as  
33 established in section 119 of this act;

34 (f) Review and comment on all annual reports submitted by  
35 producer responsibility organizations to the department, including  
36 making recommendations to the department regarding the need for any  
37 plan amendments or other recommendations regarding program  
38 activities; and

39 (g) Provide input, review, and comment on rule making developed  
40 by the department under this chapter.

1 (9) Advisory councilmembers that are representatives of tribes or  
2 tribal and indigenous services organizations or community-based and  
3 environmental nonprofit organizations must, if requested, be  
4 compensated and reimbursed in accordance with RCW 43.03.050,  
5 43.03.060, and 43.03.220.

6 (10) The department must include costs related to the advisory  
7 council in the estimate of annual costs as established in sections  
8 104 and 307 of this act, including costs for:

9 (a) Department resources, including staff time;

10 (b) A third-party facilitator, including related costs; and

11 (c) Expenses related to member participation as established in  
12 subsection (9) of this section.

13 NEW SECTION. **Sec. 121.** CONFIDENTIAL INFORMATION SUBMISSION. A  
14 producer responsibility organization, material recovery facility, or  
15 other processing facility that submits information or records to the  
16 department under this chapter may request that the information or  
17 records be made available only for the confidential use of the  
18 department, the director of the department, or the appropriate  
19 division of the department. The director of the department must give  
20 consideration to the request and if this action is not detrimental to  
21 the public interest and is otherwise in accordance with the policies  
22 and purposes of chapter 43.21A RCW, the director must grant the  
23 request for the information to remain confidential as authorized in  
24 RCW 43.21A.160.

25 NEW SECTION. **Sec. 122.** PROHIBITION ON THE USES OF FUNDS BY  
26 PRODUCER RESPONSIBILITY ORGANIZATIONS. (1) A producer responsibility  
27 organization may not use funds collected for purposes of implementing  
28 a plan required under this chapter for costs associated with:

29 (a) The payment of an administrative penalty levied under this  
30 chapter;

31 (b) Administrative appeals of orders or penalties issued under  
32 this chapter;

33 (c) Litigation between the producer responsibility organization  
34 and the state;

35 (d) Compensation of a person whose position is primarily  
36 representing the producer responsibility organization relative to the  
37 passage, defeat, approval, or modification of legislation that is  
38 being considered by a government entity; or



1 (e) Paid advertisements related to encouraging the passage,  
2 defeat, or approval, or modification of legislation that is being  
3 considered during an upcoming or current legislative session or was  
4 considered during the previous legislative session.

5 (2) Nothing in this section limits the authority of a producer  
6 responsibility organization to collect funds, such as through a  
7 special assessment, for purposes other than implementing a plan  
8 required under this chapter, such as for the purposes identified in  
9 subsection (1)(a) through (e) of this section.

10 NEW SECTION. **Sec. 123.** ENFORCEMENT AUTHORITY. (1)(a) The  
11 department may administratively impose a civil penalty of up to  
12 \$1,000 per violation per day on any person who violates this chapter  
13 or on any producer responsibility organization that violates the  
14 postconsumer recycled content provisions applicable to producer  
15 responsibility organizations under chapter 70A.--- RCW (the new  
16 chapter created in section 602 of this act) and up to \$10,000 per  
17 violation per day for the second and each subsequent violation.

18 (b) For producers out of compliance with the requirements of this  
19 chapter, the department shall provide written notification and offer  
20 information to producers in violation of this section. For the  
21 purposes of this section, written notification serves as notice of  
22 the violation. The department must issue at least one notice of  
23 violation by certified mail prior to assessing a penalty and the  
24 department may only impose a penalty on a producer that has not met  
25 the requirements of this chapter 60 days following the date the  
26 written notification of the violation was sent.

27 (2) Upon the department notifying a producer responsibility  
28 organization that it has not met a significant requirement of this  
29 chapter or chapter 70A.--- RCW (the new chapter created in section  
30 602 of this act), the department may, in addition to assessing the  
31 penalties provided in subsection (1) of this section, take any  
32 combination of the following actions:

33 (a)(i) Issue corrective action orders to a producer or producer  
34 responsibility organization;

35 (ii) Issue orders to a producer responsibility organization to  
36 provide for the continued implementation of the program in the  
37 absence of an approved plan;

1 (b) Revoke the producer responsibility organization's plan  
2 approval and require the producer responsibility organization to  
3 implement its contingency plan under section 109 of this act;

4 (c) Require a producer responsibility organization to revise or  
5 resubmit a plan within a specified time frame; or

6 (d) Require additional reporting related to compliance with the  
7 significant requirement of this chapter that was not met.

8 (3) Prior to taking the actions described in subsection (2)(b) of  
9 this section, the department must provide the producer responsibility  
10 organization or the producer an opportunity to respond to or rebut  
11 the written finding upon which the action is predicated.

12 (4) Any person who incurs a penalty under subsection (1) of this  
13 section or an order under subsection (2) of this section may appeal  
14 the penalty or order to the pollution control hearings board  
15 established in chapter 43.21B RCW.

16 (5) Penalties levied under this section must be deposited in the  
17 recycling enhancement account created in RCW 70A.245.100.

18 NEW SECTION. **Sec. 124.** TRUTH IN LABELING. (1) Beginning January  
19 1, 2027, a producer may not offer for sale, sell, or distribute in or  
20 into Washington, including by means of remote sale, any covered  
21 product under this chapter, certified product under chapter 70A.245  
22 RCW, or qualifying beverage container under chapter 70A.--- RCW (the  
23 new chapter created in section 603 of this act) that makes a  
24 deceptive or misleading claim about its recyclability.

25 (a) A covered product, certified product, or qualifying beverage  
26 container that displays a chasing arrows symbol, a chasing arrows  
27 symbol surrounding a resin identification code, or any other symbol  
28 or statement indicating that it is recyclable is deemed to be  
29 deceptive or misleading unless it is designated for collection in a  
30 producer responsibility organization plan approved by the department  
31 as described in section 107 of this act or is a qualifying beverage  
32 container in a deposit return system under chapter 70A.--- RCW (the  
33 new chapter created in section 603 of this act).

34 (b) A label is not considered a misleading or deceptive claim of  
35 recyclability if it:

36 (i) Is required by another state or by a federal law or agency at  
37 the time that the claim is made;

38 (ii) Is part of a widely adopted and standardized third-party  
39 labeling system; or

1 (iii) Uses a chasing arrows symbol in combination with a clearly  
2 visible line placed at a 45-degree angle over the chasing arrows  
3 symbol to convey that an item is not recyclable.

4 (2) At such time as an enforceable federal statutory or  
5 regulatory standard is implemented for labeling packaging related to  
6 recyclability, within 180 days the department shall review criteria  
7 under this chapter with federal standards or requirements. Upon  
8 completing its review, the department may adopt the federal criteria  
9 in lieu of the requirements of this section.

10 (3) Beginning August 1, 2023, a city, town, or county may not  
11 enforce an ordinance restricting the distribution or sale of covered  
12 products, certified products, or qualifying beverage containers due  
13 to displaying a chasing arrows symbol, a chasing arrows symbol  
14 surrounding a resin identification code, or any other symbol or  
15 statement indicating that it is recyclable if the covered product is,  
16 at the time that the claim is made:

17 (a) Designated for collection in a producer responsibility  
18 organization plan approved by the department as described in section  
19 107 of this act;

20 (b) Required to display the symbol or statement by another state  
21 or by a federal law or agency;

22 (c) Part of a widely adopted and standardized third-party  
23 labeling system; or

24 (d) Using a chasing arrows symbol in combination with a clearly  
25 visible line placed at a 45-degree angle over the chasing arrows  
26 symbol to convey that an item is not recyclable.

27 NEW SECTION. **Sec. 125.** PACKAGING REGISTRATION CLEARINGHOUSE—  
28 PRODUCER REGISTRATION. (1) The department is authorized to  
29 participate in the development and ongoing operation of a regional or  
30 multistate clearinghouse for the purpose of facilitating the  
31 implementation of state laws and rules on packaging and paper  
32 products including, but not limited to, requirements established  
33 under this chapter and in chapter 69.50 RCW pertaining to packaging  
34 of cannabis products, and chapters 70A.222, 70A.230, 70A.245,  
35 70A.340, 70A.350, 70A.455, 70A.--- (the new chapter created in  
36 section 602 of this act), and 70A.--- RCW (the new chapter created in  
37 section 603 of this act) and other relevant laws.

38 (2) The department may direct producers, including third-party e-  
39 commerce sellers, to register and submit any required data, annual

1 reports, fees, and annual payments, and any additional information or  
2 documentation to a clearinghouse in lieu of the department.

3 NEW SECTION. **Sec. 126.** OTHER ASSISTANCE PROGRAMS. Nothing in  
4 this act impacts an entity's eligibility for any state or local  
5 incentive or assistance program to which they are otherwise eligible.

6 NEW SECTION. **Sec. 127.** ACCOUNT. The responsible packaging  
7 management account is created in the custody of the state treasury.  
8 All receipts received by the department under this chapter and  
9 chapter 70A.--- RCW (the new chapter created in section 602 of this  
10 act) must be deposited in the account. Only the director of the  
11 department or the director's designee may authorize expenditures from  
12 the account. The account is subject to the allotment procedures under  
13 chapter 43.88 RCW, but an appropriation is not required for  
14 expenditures. Expenditures from the account may be used by the  
15 department only for implementing, administering, and enforcing the  
16 requirements of this chapter and chapter 70A.--- RCW (the new chapter  
17 created in section 602 of this act).

18 NEW SECTION. **Sec. 128.** PETITION FOR THE EXCLUSION OF CERTAIN  
19 PRODUCTS. (1) Prior to the submission of a new or updated plan under  
20 section 107 of this act, the department may review and determine for  
21 the duration of the upcoming plan's period of applicability whether  
22 to temporarily exclude for reasons of public health and safety from  
23 the requirements of this chapter, except as provided in subsection  
24 (5) of this section, packaging used to contain the following  
25 categories of products, subcategories of the following categories of  
26 products, or individual products that are:

27 (a) Regulated as a drug, medical device, or dietary supplement by  
28 the federal food and drug administration under the federal food,  
29 drug, and cosmetic act, 21 U.S.C. Sec. 301 et seq., as amended or any  
30 federal regulation promulgated under the act, or any equipment and  
31 materials used to manufacture such products; and

32 (b) Other products subject to requirements under federal laws  
33 that make their inclusion in the requirements of this chapter  
34 infeasible or inadvisable.

35 (2) The department's review may be initiated by the department or  
36 upon a petition by a producer, group of producers, or producer  
37 responsibility organization. The department may specify the date by

1 which a petition must be filed under subsection (1) of this section  
2 in order to be considered timely for purposes of an upcoming plan  
3 implementation period.

4 (3) In making a determination to temporarily exclude a category  
5 of products, subcategory of products, or individual product pursuant  
6 to subsection (1) of this section, the department must consider, at a  
7 minimum, all of the following factors:

8 (a) The technical feasibility of including the category of  
9 product, subcategory of product, or individual product in the program  
10 created by this chapter, and in recycling the packaging of the  
11 product or products; and

12 (b) The progress made by producers of products, categories of  
13 products, or subcategories of products in achieving the goals of this  
14 chapter, including by reducing the amount of packaging used with the  
15 products, increasing the recycled content of the product packaging,  
16 and increasing the ability of the products' packaging to be reused or  
17 recycled if appropriate.

18 (4) The petition process established in this section is distinct  
19 from the processes pertaining to adjustments and exclusions to  
20 postconsumer recycled content requirements in section 210 of this  
21 act. A product that is temporarily excluded under this section  
22 remains subject to postconsumer recycled content requirements  
23 established in chapter 70A.--- RCW (the new chapter created in  
24 section 602 of this act) unless a petition is separately granted by  
25 the department for a product under section 210 of this act.

26 (5) The producer of a product that is temporarily excluded from  
27 the requirements of this chapter under this section must report,  
28 directly to the department in a form and manner prescribed by the  
29 department, the information related to the temporarily excluded  
30 product that is required to be reported to the department by producer  
31 responsibility organizations under sections 103 and 119 of this act.

## 32 **Part Two**

### 33 **Postconsumer Recycled Content Requirements**

34 NEW SECTION. **Sec. 201.** DEFINITIONS. The definitions in this  
35 section and section 102 of this act apply throughout this chapter  
36 unless the context clearly requires otherwise.

1 (1) (a) "Beverage" means liquid products intended for human or  
2 animal consumption and in a quantity more than or equal to two fluid  
3 ounces and less than or equal to one gallon, including:

4 (i) Water and flavored water;

5 (ii) Beer or other malt beverages;

6 (iii) Wine;

7 (iv) Distilled spirits;

8 (v) Mineral water, soda water, and similar carbonated soft  
9 drinks;

10 (vi) Dairy milk; and

11 (vii) Any other beverage identified by the department by rule.

12 (b) "Beverage" does not include infant formula as defined in 21  
13 U.S.C. Sec. 321(z), medical food as defined in 21 U.S.C. Sec.  
14 360ee(b)(3), or fortified oral nutritional supplements used for  
15 persons who require supplemental or sole source nutritional needs due  
16 to special dietary needs directly related to cancer, chronic kidney  
17 disease, diabetes, or other medical conditions as determined by the  
18 department.

19 (2) "Beverage manufacturing industry" means an association that  
20 represents beverage producers.

21 (3) "Brand" means a name, symbol, word, logo, or mark that  
22 identifies a product and attributes the product and its components,  
23 including packaging, to the brand owner of the product as the  
24 producer.

25 (4) "Dairy milk" means a beverage made exclusively or principally  
26 from lacteal secretions obtained from one or more milk-producing  
27 animals. Dairy milk includes, but is not limited to:

28 (a) Whole milk, low-fat milk, skim milk, cream, half-and-half, or  
29 condensed milk; or

30 (b) Cultured or acidified milk, kefir, or eggnog.

31 (5) "De minimis producer" means an entity that annually sells,  
32 offers for sale, distributes, or imports:

33 (a) In or into the country for sale in Washington state less than  
34 one ton of PCRC products specified in subsection (18)(a)(i) through  
35 (vi) of this section; and

36 (b) That have a global gross revenue of less than \$5,000,000 for  
37 the most recent fiscal year of the organization.

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

39 (7) "Durable good" means a product that provides utility over an  
40 extended period of time.

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

7 (9) "Household" means all of the people who occupy a residential  
8 property regardless of their relationship to one another.

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

12 (11) "Household cleaning products" means products labeled,  
13 marketed, or otherwise indicating that the purpose of the product is  
14 to clean, freshen, or remove unwanted substances, such as dirt,  
15 stains, and other impurities from objects, interior or exterior  
16 structures, vehicles, possessions, and environments associated with a  
17 household. These items include:

18 (a) Liquid soaps, laundry soaps, detergents, softeners, surface  
19 polishes, and stain removers;

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

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

23 (12) "Licensee" means a manufacturer of a PCRC product or entity  
24 who licenses a brand and manufactures a PCRC product under that  
25 brand.

26 (13) "Personal care product" means a product intended or marketed  
27 for use to be rubbed, poured, sprinkled, or sprayed on, introduced  
28 into, or otherwise applied to the human body for cleansing,  
29 beautifying, promoting attractiveness, or altering the appearance  
30 including:

31 (a) Shampoo, conditioner, styling sprays and gels, and other hair  
32 care products;

33 (b) Lotion, moisturizer, facial toner, and other skin care  
34 products;

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

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

38 (14) (a) "Plastic beverage container" means a bottle or other  
39 rigid container that is solely made of plastic material and is  
40 capable of maintaining its shape when empty, comprised of one or

1 multiple plastic resins designed to contain a beverage. "Plastic  
2 beverage container" includes a container's cap or lid.

3 (b) "Plastic beverage container" does not include:

4 (i) Reusable beverage containers, such as containers that are  
5 sufficiently durable for multiple rotations of their original or  
6 similar purpose and are intended to function in a system of reuse;

7 (ii) Rigid plastic containers or plastic bottles that are or are  
8 used for medical devices, medical products that are required to be  
9 sterile, drugs, or dietary supplements as defined in RCW 82.08.0293  
10 that do not contain a "nutrition facts" label required under federal  
11 law;

12 (iii) Bladders or pouches that contain a beverage;

13 (iv) Paper-based beverage containers; or

14 (v) Liners, corks, closures, labels, and other items added  
15 externally or internally but otherwise separate from the structure of  
16 the bottle or container, other than a lid or cap.

17 (15)(a) "Plastic household cleaning and personal care product  
18 container" means a bottle, jug, tub, tube, or other rigid container  
19 with:

20 (i) A minimum capacity of eight fluid ounces or its equivalent  
21 volume;

22 (ii) A maximum capacity of five fluid gallons or its equivalent  
23 volume;

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

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

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

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

29 (i) Reusable household cleaning and personal care product  
30 containers, such as containers that are sufficiently durable for  
31 multiple rotations of their original or similar purpose and are  
32 intended to function in a system of reuse;

33 (ii) Rigid plastic containers or plastic bottles that are medical  
34 devices, medical products that are required to be sterile,  
35 prescription drugs, and dietary supplements as defined in RCW  
36 82.08.0293, and packaging used for those products; and

37 (iii) Pesticide products regulated by the federal insecticide,  
38 fungicide, and rodenticide act, 7 U.S.C. Sec. 136 et seq. that are in  
39 direct contact with the regulated product. This exemption does not



1 include products regulated by the United States food and drug  
2 administration.

3 (16) (a) "Plastic tub" means a wide-mouth rigid container used to  
4 package consumable or durable goods that reach consumers, with a  
5 maximum capacity of 50 ounces, that is:

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

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

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

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

12 (i) Household cleaning and personal care products;

13 (ii) Plastic containers that are or are used for medical devices,  
14 medical products that are required to be sterile, nonprescription and  
15 prescription drugs, or dietary supplements as defined in RCW  
16 82.08.0293;

17 (iii) Thermoform plastic containers;

18 (iv) Single-use plastic cups; and

19 (v) Other covered products subject to minimum PCRC requirements.

20 (17) (a) (i) "Postconsumer recycled content" or "PCRC" means the  
21 certified plastic resin incorporated into plastic packaging for a  
22 PCRC product and derived specifically from recycled material  
23 generated by households or by commercial or institutional facilities  
24 in their role as end users of packaged products that can no longer be  
25 used for their intended purpose.

26 (ii) "PCRC" includes returns of material from the distribution  
27 chain.

28 (b) "PCRC" does not include plastic from preconsumer or  
29 industrial plastic manufacturing sources.

30 (18) (a) "Postconsumer recycled content product" or "PCRC product"  
31 means an item in one of the following categories subject to minimum  
32 PCRC requirements under this chapter:

33 (i) Household cleaning products that use plastic household  
34 cleaning product containers;

35 (ii) Personal care products that use personal care product  
36 containers;

37 (iii) Beverages that use plastic beverage containers;

38 (iv) Plastic tubs for food products;

39 (v) Thermoform plastic containers; and

40 (vi) Single-use plastic cups.

1 (b) "PCRC product" does not include any type of container or bag  
2 for which the state is preempted from regulating content of the  
3 container material under federal law or any items subject to the  
4 postconsumer recycling content requirements of chapter 70A.245 RCW.

5 (19)(a) "Producer" means the following person responsible for  
6 compliance with requirements under this chapter for a PCRC product  
7 sold, offered for sale, or distributed in or into this state:

8 (i) If the product is sold in or with packaging under the brand  
9 of the product manufacturer or is sold in packaging that lacks  
10 identification of a brand, the producer of the packaging is the  
11 person that manufactures the product;

12 (ii) If the product is sold under a retail brand, the producer is  
13 the retail brand owner;

14 (iii) If the product is manufactured by a person other than the  
15 brand owner, the producer of the packaging is the person that is the  
16 licensee of a brand or trademark under which a packaged item is used  
17 in a commercial enterprise, sold, offered for sale, or distributed in  
18 or into this state, whether or not the trademark is registered in  
19 this state;

20 (iv) If there is no person described in (a)(i), (ii), or (iii) of  
21 this subsection within the United States, the producer is the person  
22 who imports the product into the United States for use in a  
23 commercial enterprise that sells, offers for sale, or distributes the  
24 product in this state; or

25 (v) A person who would be considered a "producer" of a PCRC  
26 product sold, offered for sale, or distributed in or into this state,  
27 as defined in (a)(i) through (iv) of this subsection, can designate  
28 another responsible producer for that PCRC product if another person  
29 agrees to accept responsibility and has registered as the producer  
30 responsible for that PCRC product under this chapter.

31 (b) "Producer" does not include:

32 (i) Government agencies, municipalities, or other political  
33 subdivisions of the state;

34 (ii) Registered 501(c)(3) charitable organizations and 501(c)(4)  
35 social welfare organizations; or

36 (iii) De minimis producers that annually sell, offer for sale,  
37 distribute, or import:

38 (A) In Washington state less than one ton of PCRC products; and

39 (B) That have a global gross revenue of less than \$5,000,000 for  
40 the most recent fiscal year of the organization.

1 (20) "Producer responsibility organization" has the same meaning  
2 as defined in section 102 of this act.

3 (21) "Responsible producer" means a producer that is not a de  
4 minimis producer.

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

9 (b) "Retail establishment" includes, but is not limited to, food  
10 service businesses as defined in RCW 70A.245.010, grocery stores,  
11 department stores, hardware stores, home delivery services,  
12 pharmacies, liquor stores, restaurants, catering trucks, convenience  
13 stores, or other retail stores or vendors, including temporary stores  
14 or vendors at farmers markets, street fairs, and festivals.

15 (23)(a) "Single-use plastic cup" means all beverage cups that are  
16 nonsealed or sealed at point of sale.

17 (b) "Single-use plastic cups" do not include:

18 (i) Commercially or home compostable cups;

19 (ii) Expanded polystyrene cups; or

20 (iii) Composite plastic-lined fiber cups.

21 (24)(a) "Thermoform plastic container" means a clear or colored  
22 plastic container, such as a clamshell, lid, tray, egg carton,  
23 trifold, or similar rigid, nonbottle packaging, formed from sheets of  
24 extruded plastic resin and used to package consumable or durable  
25 goods that reach consumers, including:

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

30 (ii) Containers that may be filled at the point of sale at a  
31 retail establishment; and

32 (iii) Unfilled containers that are sold directly.

33 (b) "Thermoform plastic container" includes:

34 (i) Hinged plastic containers, commonly known as "clamshells" or  
35 "blister packaging";

36 (ii) Two-piece unhinged containers;

37 (iii) One-piece containers without lids, such as trays; and

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

40 (c) "Thermoform plastic container" does not include:

- 1 (i) Household cleaning products or personal care products;
- 2 (ii) Plastic tubs;
- 3 (iii) Reusable containers;
- 4 (iv) A lid or seal of a different material type from plastic;
- 5 (v) A reusable thermoform plastic container that ordinarily would
- 6 be returned to the manufacturer to be refilled and resold;
- 7 (vi) Plastic containers that are or are used for medical devices,
- 8 medical products that are required to be sterile, prescription drugs,
- 9 or dietary supplements as defined in RCW 82.08.0293;
- 10 (vii) Commercially or home compostable containers;
- 11 (viii) Other PCRC products; and
- 12 (ix) Thermoform plastic containers accompanying a durable good
- 13 when the durable good model, and the associated packaging, was
- 14 designed prior to January 1, 2025.

15 NEW SECTION. **Sec. 202.** DE MINIMIS PRODUCERS. (1) For purposes

16 of determining whether a producer is a de minimis producer, the

17 weight and revenue definitional thresholds must be calculated at the

18 level of the "entity" associated with the PCRC product by the

19 producer responsibility organization.

20 (2) The exemptions under this chapter for de minimis producers do

21 not apply to entities that have agreed to accept responsibility for

22 compliance with the requirements of this chapter for a PCRC product

23 on the behalf of another producer.

24 (3)(a) De minimis producers are not required to meet annual

25 registration, reporting, PCRC, or fee requirements of PCRC products

26 under this chapter.

27 (b) De minimis producers must annually notify the producer

28 responsibility organization in which the producer participates to

29 demonstrate that they are de minimis producers.

30 (4) The producer responsibility organization must submit to the

31 department information necessary to verify whether a producer

32 qualifies for the de minimis status, including:

33 (a) Annual global gross revenue dollar amount less than or equal

34 to \$5,000,000;

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

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

37 NEW SECTION. **Sec. 203.** PCRC REQUIREMENTS FOR PCRC PRODUCTS.

38 (1)(a) By January 1, 2025, and each January 1st thereafter, a

1 producer responsibility organization under chapter 70A.--- RCW (the  
2 new chapter created in section 601 of this act) that represents  
3 producers who offers for sale, sells, or distributes in or into  
4 Washington PCRC products must register with the department on behalf  
5 of each producer registered with the producer responsibility  
6 organization with sale or distribution of PCRC products in or into  
7 Washington. A producer must continue to register and report to the  
8 department under the methods established in chapter 70A.245 RCW until  
9 a producer responsibility organization registers with the department  
10 under chapter 70A.--- RCW (the new chapter created in section 601 of  
11 this act).

12 (b) The registration information submitted under (a) of this  
13 subsection must include a list of the producers of PCRC products and  
14 the associated brand names of the PCRC products represented in the  
15 registration submittal.

16 (2) Producers that offer for sale, sell, or distribute in or into  
17 Washington the following products must meet the minimum postconsumer  
18 recycled content requirements:

19 (a) Beginning January 1, 2024, producers of beverages other than  
20 wine in 187 milliliter plastic beverage containers and dairy milk in  
21 plastic beverage containers must meet minimum PCRC requirements  
22 established under section 204 of this act.

23 (b) Beginning January 1, 2025, producers of household cleaning  
24 products or personal care products in plastic household cleaning  
25 product containers or plastic personal care product containers must  
26 meet minimum PCRC requirements as required under section 205 of this  
27 act.

28 (c) Beginning January 1, 2026, producers of plastic tubs used for  
29 food products must meet minimum PCRC requirements established under  
30 section 206 of this act.

31 (d) Beginning January 1, 2028, producers of wine in 187  
32 milliliter plastic beverage containers or dairy milk in plastic  
33 beverage containers must meet minimum PCRC requirements established  
34 under section 204 of this act.

35 (e) Beginning January 1, 2029, producers of single-use plastic  
36 cups must meet minimum PCRC requirements established under section  
37 207 of this act.

38 (f) Beginning January 1, 2031, producers of thermoform plastic  
39 containers, except those containing durable goods, must meet minimum  
40 PCRC requirements established under section 208 of this act.

1 (g) Beginning January 1, 2036, producers of durable goods in  
2 thermoform plastic containers must meet minimum PCRC requirements  
3 established under section 208 of this act.

4 (3)(a) In addition to the registration information submitted  
5 under subsection (1) of this section, each producer of a PCRC product  
6 must annually report PCRC to the producer responsibility organization  
7 with which it is registered, beginning on the following dates:

8 (i) No later than 30 days after the registration of a producer  
9 with a producer responsibility organization under subsection (1)(a)  
10 of this section, for plastic beverage containers other than plastic  
11 dairy milk containers and 187 milliliter plastic wine containers;

12 (ii) February 1, 2026, for plastic household cleaning product  
13 containers and plastic personal care product containers;

14 (iii) February 1, 2027, for plastic tubs used for food products;

15 (iv) February 1, 2029, for plastic dairy milk containers and 187  
16 milliliter plastic wine containers;

17 (v) February 1, 2030, for single-use plastic cups;

18 (vi) February 1, 2032, for thermoform plastic containers except  
19 those containing durable goods; and

20 (vii) February 1, 2037, for thermoform plastic containers  
21 containing durable goods.

22 (b) Producer PCRC annual reports to the producer responsibility  
23 organization must include:

24 (i) The amount in pounds of virgin plastic and the amount in  
25 pounds of PCRC by resin type used within a single PCRC product  
26 category sold, offered for sale, or distributed in or into  
27 Washington;

28 (ii) The total PCRC resin as a percentage of the total weight of  
29 plastic reported for a single PCRC product category, or other metrics  
30 approved by the department; and

31 (iii) Any additional information adopted by rule by the  
32 department.

33 NEW SECTION. **Sec. 204.** PCRC REQUIREMENTS FOR PLASTIC BEVERAGE  
34 CONTAINERS. A producer of a beverage in a plastic beverage container  
35 must meet the following annual minimum PCRC percentage on average for  
36 the total quantity of plastic beverage containers, by weight, that  
37 are sold, offered for sale, or distributed in or into Washington by  
38 the producer effective:

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

3 (a) January 1, 2024, through December 31, 2025: No less than 15  
4 percent PCRC plastic by weight;

5 (b) January 1, 2026, through December 31, 2030: No less than 25  
6 percent PCRC plastic by weight; and

7 (c) On and after January 1, 2031: No less than 50 percent PCRC  
8 plastic by weight.

9 (2) For wine in 187 milliliter plastic beverage containers and  
10 dairy milk:

11 (a) January 1, 2028, through December 31, 2030: No less than 15  
12 percent PCRC plastic by weight;

13 (b) January 1, 2031, through December 31, 2035: No less than 25  
14 percent PCRC plastic by weight; and

15 (c) On and after January 1, 2036: No less than 50 percent PCRC  
16 plastic by weight.

17 NEW SECTION. **Sec. 205.** PCRC REQUIREMENTS FOR HOUSEHOLD CLEANING  
18 PRODUCTS AND PERSONAL CARE PRODUCTS. A producer of household cleaning  
19 products in plastic containers or a producer of personal care  
20 products in plastic containers must meet the following annual minimum  
21 PCRC percentage on average for the total quantity of plastic  
22 containers, by weight, that are sold, offered for sale, or  
23 distributed in or into Washington by the producer effective:

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

26 (2) January 1, 2028, through December 31, 2030: No less than 25  
27 percent PCRC plastic by weight; and

28 (3) On and after January 1, 2031: No less than 50 percent PCRC  
29 plastic by weight.

30 NEW SECTION. **Sec. 206.** PCRC REQUIREMENTS FOR PLASTIC TUBS FOR  
31 FOOD PRODUCTS. A producer of plastic tubs must meet the following  
32 annual minimum PCRC percentage on average for the total quantity of  
33 plastic tubs used for food products, by weight, that are sold,  
34 offered for sale, or distributed in or into Washington by the  
35 producer effective:

36 (1) January 1, 2026, through December 31, 2030: No less than 10  
37 percent PCRC plastic by weight; and

1 (2) On and after January 1, 2031: No less than 30 percent PCRC  
2 plastic by weight.

3 NEW SECTION. **Sec. 207.** PCRC REQUIREMENTS FOR SINGLE-USE PLASTIC  
4 CUPS. A producer of single-use plastic cups must meet the following  
5 annual minimum PCRC percentage on average for the total quantity of  
6 single-use plastic cups, by weight, that are sold, offered for sale,  
7 or distributed in or into Washington by the producer effective:

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

9 (a) January 1, 2029, through December 31, 2030: No less than 15  
10 percent PCRC plastic by weight; and

11 (b) On and after January 1, 2031: No less than 25 percent PCRC  
12 plastic by weight.

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

15 (a) January 1, 2029, through December 31, 2030: No less than 20  
16 percent PCRC plastic by weight; and

17 (b) On and after January 1, 2031: No less than 30 percent PCRC  
18 plastic by weight.

19 NEW SECTION. **Sec. 208.** PCRC REQUIREMENTS FOR THERMOFORM PLASTIC  
20 CONTAINERS. A producer of a thermoform plastic container must meet  
21 the following annual minimum PCRC percentage on average for the total  
22 quantity of thermoform plastic containers, by weight, that are sold,  
23 offered for sale, or distributed in or into Washington by the  
24 producer effective:

25 (1) For packaging for consumable goods:

26 (a) January 1, 2031, through December 31, 2035: No less than 10  
27 percent PCRC plastic by weight; and

28 (b) On and after January 1, 2036: No less than 30 percent PCRC  
29 plastic by weight.

30 (2)(a) Except as provided in (b) of this subsection, for  
31 packaging used for durable goods: On and after January 1, 2036, no  
32 less than 30 percent PCRC plastic by weight.

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

36 NEW SECTION. **Sec. 209.** PCRC REPORTING BY PRODUCER  
37 RESPONSIBILITY ORGANIZATIONS. (1) A producer responsibility



1 organization reporting to the department under this chapter must pay  
2 fees as specified in chapter 70A.--- RCW (the new chapter created in  
3 section 601 of this act).

4 (2) Beginning April 1, 2025, and each April 1st thereafter, a  
5 producer responsibility organization must annually report to the  
6 department for each producer of PCRC products for which it receives  
7 reports from producers under section 203 of this act:

8 (a) The amount in pounds of virgin plastic resin;

9 (b) The amount in pounds of PCRC by resin type used for each  
10 category of covered products that are sold, offered for sale, or  
11 distributed in or into Washington;

12 (c) The total PCRC resins as a percentage of total weight;

13 (d) Any other information necessary to fulfill the intent of this  
14 chapter, as required by rule adopted by the department.

15 (3) (a) The report must be submitted in a format and manner  
16 prescribed by the department. A producer may submit national or  
17 regional data allocated on a per capita basis for Washington to  
18 approximate the information required in this section if the producer  
19 or third-party representative demonstrates to the department that  
20 state level data are not available or feasible to generate.

21 (b) A producer must maintain a certificate of compliance,  
22 conducted by a third-party certification entity, stating that the  
23 covered product is in compliance with postconsumer recycled content  
24 requirements under this chapter. A third-party certification entity  
25 must be an independent, accredited (ISO/IEC 17065) certifying body. A  
26 producer shall maintain a certificate of compliance within a year by  
27 the dates on which the postconsumer recycled content requirements  
28 take effect for the producer's PCRC products.

29 (c) If compliance with minimum recycled content requirements is  
30 achieved through an adjustment made pursuant to section 210 of this  
31 act, the certificate must state the specific basis upon which the  
32 exemption is claimed.

33 (d) The certificate of compliance must be kept on file by the  
34 producer for three years from the date of the last sale or  
35 distribution by the producer.

36 (e) A producer must furnish a certificate of compliance to the  
37 department upon request within 60 days.

38 (f) Requests from a member of the public for any certificate of  
39 compliance must be made in writing to the department and must be  
40 specific as to the PCRC product information requested. The department

1 must respond to requests from a member of the public under this  
2 subsection within 90 days.

3 (g) If manufacturers are required under any other state statute,  
4 including chapter 70A.222 RCW, to provide a certificate of  
5 compliance, one certificate may be developed containing all required  
6 information.

7 (h) If the producer of the PCRC product reformulates or creates a  
8 new PCRC product, the producer shall develop an amended or new  
9 certificate of compliance for the reformulated or new PCRC product.

10 (4) (a) A producer responsibility organization may, as part of the  
11 annual report submitted to the department under this section, or as a  
12 separate submission in advance of the effective dates in sections 205  
13 through 208 of this act, petition for an exclusion or adjustment  
14 under section 210 of this act covering the upcoming calendar year to  
15 the minimum PCRC requirements on behalf of producers registered with  
16 the producer responsibility organization.

17 (b) When submitting a petition for a PCRC rate adjustment, the  
18 producer responsibility organization must provide necessary  
19 information that will allow the department to make a determination  
20 based on the factors listed in section 210(2) of this act.

21 (c) When submitting a petition for a PCRC rate temporary  
22 exclusion, the producer responsibility organization must provide  
23 necessary information that will allow the department to make a  
24 determination based on the factors listed in section 210(4) of this  
25 act.

26 (5) The department must review and determine whether to approve  
27 PCRC reports submitted by producer responsibility organizations. The  
28 department must:

29 (a) Make PCRC reports submitted under this section, including  
30 petitions for exclusions or rate adjustments under section 210 of  
31 this act, available for public review and comment for at least 30  
32 days upon the receipt of the annual report by the department;

33 (b) Make a determination as to whether or not an annual report  
34 meets the requirements of this section and notify the producer  
35 responsibility organization of the:

36 (i) Determination of approval of the PCRC annual report; or

37 (ii) Reasons for not approving the PCRC annual report. The  
38 producer responsibility organization must submit a revised PCRC  
39 annual report within 60 days after receipt of the letter of  
40 disapproval.

1 (6) The department must post approved PCRC annual reports  
2 submitted by each producer responsibility organization under this  
3 section on its website.

4 NEW SECTION. **Sec. 210.** ADJUSTMENTS AND TEMPORARY EXCLUSIONS TO  
5 PCRC RATES. (1) The department may review and determine for the  
6 following calendar year whether to adjust the minimum PCRC percentage  
7 required for a type of container or PCRC product or category of PCRC  
8 products under this chapter. The department's review may be initiated  
9 by the department or upon a petition by a producer responsibility  
10 organization in its annual report submitted to the department under  
11 section 209 of this act.

12 (2) In making a determination pursuant to subsection (1) of this  
13 section, the department must consider, at a minimum, all of the  
14 following factors:

15 (a) Changes in market conditions, including supply and demand for  
16 PCRC plastics, collection rates, and bale availability both  
17 domestically and globally;

18 (b) Recycling rates;

19 (c) The availability of recycled plastic suitable to meet the  
20 minimum PCRC requirements pursuant to subsection (3) or (4) of this  
21 section, including the availability of high quality recycled plastic,  
22 and food-grade recycled plastic from recycling programs;

23 (d) The capacity of recycling or processing infrastructure;

24 (e) The technical feasibility of achieving the minimum PCRC  
25 requirements in covered products that are regulated under 21 C.F.R.,  
26 chapter I, subchapter G, 7 U.S.C. Sec. 136, 15 U.S.C. Sec. 1471-1477,  
27 49 C.F.R. Sec. 178.33b, 49 C.F.R. Sec. 173, 40 C.F.R. Sec. 152.10, 15  
28 U.S.C. Sec. 1261-1278, 49 U.S.C. Sec. 5101 et seq., 49 C.F.R. Sec.  
29 178.509, 49 C.F.R. Sec. 179.522, 49 C.F.R. Sec. 178.600-609, and  
30 other federal laws; and

31 (f) The progress made by producers in achieving the goals of this  
32 chapter.

33 (3)(a) Under this section, the department may not adjust the  
34 minimum PCRC requirements above the minimum PCRC percentages under  
35 sections 204, 206, 207, and 208 of this act for the year under  
36 review.

37 (b) For plastic household cleaning product containers and plastic  
38 personal care product containers, the department may not adjust the  
39 minimum PCRC requirements above the minimum PCRC percentages for the

1 year under review required pursuant to section 205 of this act or  
2 below a minimum of 10 percent.

3 (4) (a) The department must temporarily exclude from minimum PCRC  
4 requirements for the upcoming year any types of PCRC products in  
5 plastic containers for which a producer responsibility organization  
6 demonstrates to the department in its annual report under section 209  
7 of this act that the:

8 (i) Producer cannot achieve the PCRC requirements and remain in  
9 compliance with applicable rules and regulations adopted by the  
10 United States food and drug administration, or any other state or  
11 federal law, rule, or regulation; or

12 (ii) Achievement of PCRC requirements in the container material  
13 is not technologically feasible.

14 (b) The producer responsibility organization must continue to  
15 provide producer registration data and report consistent with the  
16 requirements of this chapter for PCRC products temporarily excluded  
17 from minimum PCRC requirements under this subsection.

18 (5) A producer or producer responsibility organization may appeal  
19 a decision by the department to adjust PCRC percentages under this  
20 section or to temporarily exclude covered products from minimum PCRC  
21 requirements under subsection (4) of this section to the pollution  
22 control hearings board within 30 days of the department's  
23 determination.

24 NEW SECTION. **Sec. 211.** ADMINISTRATIVE ROLE AND ENFORCEMENT BY  
25 THE DEPARTMENT. (1) (a) A producer that does not pay fees, register,  
26 report, or achieve the PCRC requirements established under this  
27 chapter is subject to the penalties provided in this section.

28 (b) A producer responsibility organization that does meet the  
29 registration, fee payment, or reporting requirements under this  
30 chapter is subject to the provisions provided in section 123 of this  
31 act.

32 (2) (a) A producer assessed a penalty pursuant to this chapter  
33 must remit the penalty to the producer responsibility organization  
34 with which it is registered. A producer responsibility organization  
35 must submit aggregated penalty payments comprised of the remitted  
36 penalty payments from all producers owing penalties under this  
37 chapter that are members of the producer responsibility organization.  
38 The producer responsibility organization's aggregated payment may be  
39 a single annual payment, paid in quarterly installments, or on an

1 alternative payment schedule arranged subject to the approval of the  
2 department. The department may not approve an alternative payment  
3 schedule that exceeds a 12-month time frame unless the department  
4 determines that an extension is needed due to unforeseen  
5 circumstances, such as a public health emergency, state of emergency,  
6 or natural disaster.

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

16 (i) (A) Based on data provided in the annual report submitted  
17 under section 209 of this act by a producer responsibility  
18 organization, the annual penalty amount assessed to a producer must  
19 equal the product of both of the following: The total pounds of  
20 plastic used per category multiplied by the relevant minimum PCRC  
21 plastic target percentage, less the pounds of total plastic  
22 multiplied by the percent of PCRC plastic used; multiplied by 20  
23 cents.

24 (B) Example: [(Total pounds of plastic used x minimum PCRC  
25 plastic target percentage) - (Total pounds of plastic used x PCRC  
26 plastic percentage used)] x 20 cents.

27 (ii) For the purposes of (b) (i) of this subsection, both of the  
28 following apply:

29 (A) The total pounds of plastic used must equal the sum of the  
30 amount of virgin plastic, PCRC plastic, and any other plastic used by  
31 the producer, as reported pursuant to section 209 of this act;

32 (B) If the mathematical product calculated pursuant to (b) (i) of  
33 this subsection is equal to or less than zero, the department may not  
34 assess a penalty.

35 (3) (a) Upon request by a producer responsibility organization,  
36 the department must consider granting a reduction of penalties  
37 assessed under this section for a producer's failure to achieve PCRC  
38 requirements established in this chapter. Penalty reduction requests  
39 under this subsection must be submitted to the department by August  
40 1st of each year. A producer responsibility organization's request to

1 the department must contain sufficient information described in (b)  
2 of this subsection to allow the department to determine whether to  
3 grant the request.

4 (b) In determining whether to grant a penalty reduction, the  
5 department must consider, at minimum, all of the following factors:

6 (i) Anomalous market conditions;

7 (ii) Disruption in, or lack of supply of, recycled plastics; and

8 (iii) Other factors that have prevented a producer from meeting  
9 the minimum PCRC requirements of this chapter.

10 (c) In lieu of or in addition to assessing a penalty under this  
11 section, the department may require a producer responsibility  
12 organization to submit on behalf of a producer or group of producers  
13 a corrective action plan detailing how the producer or producers plan  
14 to come into compliance with this chapter.

15 (4) For purposes of determining compliance with the PCRC  
16 requirements of this chapter, the department may consider information  
17 provided by the producer responsibility organization regarding the  
18 date of manufacture of a PCRC product or the container of a PCRC  
19 product.

20 (5)(a) A producer or a producer responsibility organization may  
21 appeal penalties assessed and orders issued under this chapter to the  
22 pollution control hearings board within 30 days of penalty assessment  
23 or order issuance.

24 (b) Penalties collected under this section must be deposited in  
25 the recycling enhancement account created in RCW 70A.245.100.

26 (6)(a) A city, town, county, or municipal corporation may not  
27 implement local recycled content requirements for a PCRC product that  
28 is subject to minimum PCRC requirements established in this chapter.

29 (b) A city, town, county, or municipal corporation may establish  
30 local purchasing requirements that include recycled content standards  
31 that exceed the minimum recycled content requirements established by  
32 this chapter for plastic household cleaning product containers and  
33 plastic personal care product containers purchased by a city, town,  
34 or municipal corporation, or its contractor.

35 (7) In-state distributors, wholesalers, and retail establishments  
36 in possession of PCRC products manufactured before the date that PCRC  
37 requirements become effective may exhaust their existing stock  
38 through sales to the public.

1        NEW SECTION.    **Sec. 212.**    RULE-MAKING AUTHORITY. The department  
2 may adopt rules as necessary to implement, administer, and enforce  
3 this chapter.

4        **Sec. 213.**    RCW 70A.245.010 and 2021 c 313 s 2 are each amended to  
5 read as follows:

6        The definitions in this section apply throughout this chapter  
7 unless the context clearly requires otherwise.

8        (1) (~~"Beverage" means beverages identified in (a) through (f) of~~  
9 ~~this subsection, intended for human or animal consumption, and in a~~  
10 ~~quantity more than or equal to two fluid ounces and less than or~~  
11 ~~equal to one gallon:~~

12        ~~(a) Water and flavored water;~~

13        ~~(b) Beer or other malt beverages;~~

14        ~~(c) Wine;~~

15        ~~(d) Distilled spirits;~~

16        ~~(e) Mineral water, soda water, and similar carbonated soft~~  
17 ~~drinks; and~~

18        ~~(f) Any beverage other than those specified in (a) through (e) of~~  
19 ~~this subsection, except infant formula as defined in 21 U.S.C. Sec.~~  
20 ~~321(z), medical food as defined in 21 U.S.C. Sec. 360ee(b)(3), or~~  
21 ~~fortified oral nutritional supplements used for persons who require~~  
22 ~~supplemental or sole source nutritional needs due to special dietary~~  
23 ~~needs directly related to cancer, chronic kidney disease, diabetes,~~  
24 ~~or other medical conditions as determined by the department.~~

25        ~~(2) "Beverage manufacturing industry" means an association that~~  
26 ~~represents beverage producers.~~

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

32        ~~((4) (a) "Covered product" means an item in one of the following~~  
33 ~~categories subject to minimum postconsumer recycled content~~  
34 ~~requirements:~~

35        ~~(i) Plastic trash bags;~~

36        ~~(ii) Household cleaning and personal care products that use~~  
37 ~~plastic household cleaning and personal care product containers; and~~

38        ~~(iii) Beverages that use plastic beverage containers.~~

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

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

7 ~~(6))~~ (2) "Department" means the department of ecology.

8 ~~((7))~~ (3) "Expanded polystyrene" means blown polystyrene and  
9 expanded and extruded foams that are thermoplastic petrochemical  
10 materials utilizing a styrene monomer and processed by any number of  
11 techniques including, but not limited to, fusion of polymer spheres  
12 (expandable bead polystyrene), injection molding, foam molding, and  
13 extrusion-blow molding (extruded foam polystyrene).

14 ~~((8))~~ (4) "Food service business" means a business selling or  
15 providing food for consumption on or off the premises, and includes  
16 full-service restaurants, fast food restaurants, cafes,  
17 delicatessens, coffee shops, grocery stores, vending trucks or carts,  
18 home delivery services, delivery services provided through an online  
19 application, and business or institutional cafeterias.

20 ~~((9))~~ (5) "Food service product" means a product intended for  
21 one-time use and used for food or drink offered for sale or use. Food  
22 service products include, but are not limited to, containers, plates,  
23 bowls, cups, lids, beverage containers, meat trays, deli rounds,  
24 utensils, sachets, straws, condiment packaging, clamshells and other  
25 hinged or lidded containers, wrap, and portion cups.

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

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

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

30 ~~(c) Liquid soap;~~

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

33 ~~(e) Lotion, moisturizer, facial toner, and other skin care~~  
34 ~~products.~~

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

38 ~~(12))~~ (6) "Licensee" means a manufacturer of a certified PCRC  
39 product or entity who licenses a brand and manufactures a ~~((covered~~  
40 ~~product))~~ certified PCRC product under 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) "Plastic beverage container" means a bottle or other rigid~~  
7 ~~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 does not include:~~

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

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

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

18       ~~(d) Liners, caps, corks, closures, labels, and other items added~~  
19 ~~externally or internally but otherwise separate from the structure of~~  
20 ~~the bottle or container.~~

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

24       ~~(i) A minimum capacity of eight fluid ounces or its equivalent~~  
25 ~~volume;~~

26       ~~(ii) A maximum capacity of five fluid gallons or its equivalent~~  
27 ~~volume;~~

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

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

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

31       ~~(b) "Plastic household cleaning and personal care product~~  
32 ~~container" does not include:~~

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

37       ~~(ii) Rigid plastic containers or plastic bottles that are medical~~  
38 ~~devices, medical products that are required to be sterile, and~~  
39 ~~nonprescription and prescription drugs, dietary supplements as~~  
40 ~~defined in RCW 82.08.0293, and packaging used for those products.~~

1       ~~(16))~~ (7) "Plastic trash bag" means a bag that is made of  
2 noncompostable plastic, is at least 0.70 mils thick, and is designed  
3 and manufactured for use as a container to hold, store, or transport  
4 materials to be discarded or recycled, and includes, but is not  
5 limited to, a garbage bag, recycling bag, lawn or leaf bag, can liner  
6 bag, kitchen bag, or compactor bag. "Plastic trash bag" does not  
7 include any compostable bags meeting the requirements of chapter  
8 70A.455 RCW.

9       ~~((17) "Plastic trash bag))~~ (8) "Certified PCRC product  
10 manufacturing industry" means an association that represents  
11 companies that manufacture ~~((plastic trash bags))~~ a certified PCRC  
12 product.

13       ~~((18))~~ (9) "Postconsumer recycled content" means the content of  
14 a ~~((covered product))~~ certified PCRC product made of recycled  
15 materials derived specifically from recycled material generated by  
16 households or by commercial, industrial, and institutional facilities  
17 in their role as end users of a product that can no longer be used  
18 for its intended purpose. "Postconsumer recycled content" includes  
19 returns of material from the distribution chain.

20       ~~((19))~~ (10) (a) "Producer" means the following person  
21 responsible for compliance with minimum postconsumer recycled content  
22 requirements under this chapter for a ~~((covered product sold, offered~~  
23 ~~for sale, or distributed in or into this state:~~

24       ~~(i) If the covered product is sold under the manufacturer's own~~  
25 ~~brand or lacks identification of a brand, the producer is the person~~  
26 ~~who manufactures the covered product;~~

27       ~~(ii) If the covered product is manufactured by a person other~~  
28 ~~than the brand owner, the producer is the person who is the licensee~~  
29 ~~of a brand or trademark under which a covered product is sold,~~  
30 ~~offered for sale, or distributed in or into this state, whether or~~  
31 ~~not the trademark is registered in this state, unless the~~  
32 ~~manufacturer or brand owner of the covered product has agreed to~~  
33 ~~accept responsibility under this chapter; or~~

34       ~~(iii) If there is no person described in (a) (i) and (ii) of this~~  
35 ~~subsection over whom the state can constitutionally exercise~~  
36 ~~jurisdiction, the producer is the person who imports or distributes~~  
37 ~~the covered product in or into the state)) certified product sold,~~  
38 offered for sale, or distributed in or into this state:

39       (i) If the product is sold in or with packaging under the brand  
40 of the product manufacturer or is sold in packaging that lacks

1 identification of a brand, the producer of the packaging is the  
2 person that manufactures the product;

3 (ii) If the product is sold under a retail brand, the producer is  
4 the retail brand owner;

5 (iii) If the product is manufactured by a person other than the  
6 brand owner, the producer of the packaging is the person that is the  
7 licensee of a brand or trademark under which a packaged item is used  
8 in a commercial enterprise, sold, offered for sale, or distributed in  
9 or into this state, whether or not the trademark is registered in  
10 this state;

11 (iv) If there is no person described in (a) (i), (ii), or (iii) of  
12 this subsection within the United States, the producer is the person  
13 who imports the product into the United States for use in a  
14 commercial enterprise that sells, offers for sale, or distributes the  
15 product in this state; or

16 (v) A person who would be considered a "producer" of a certified  
17 product sold, offered for sale, or distributed in or into this state,  
18 as defined in (a) (i) through (iv) of this subsection, can designate  
19 another responsible producer for that certified product if another  
20 person agrees to accept responsibility and has registered as the  
21 producer responsible for that certified product under this chapter.

22 (b) "Producer" does not include:

23 (i) Government ((agencies)) entities, municipalities, or other  
24 political subdivisions of the state; or

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

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

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

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

34 ((+20)) (11) (a) "Retail establishment" means any person,  
35 corporation, partnership, business, facility, vendor, organization,  
36 or individual that sells or provides merchandise, goods, or materials  
37 directly to a customer.

38 (b) "Retail establishment" includes, but is not limited to, food  
39 service businesses, grocery stores, department stores, hardware  
40 stores, home delivery services, pharmacies, liquor stores,

1 restaurants, catering trucks, convenience stores, or other retail  
2 stores or vendors, including temporary stores or vendors at farmers  
3 markets, street fairs, and festivals.

4 ~~((21))~~ (12) (a) "Utensil" means a product designed to be used by  
5 a consumer to facilitate the consumption of food or beverages,  
6 including knives, forks, spoons, cocktail picks, chopsticks, splash  
7 sticks, and stirrers.

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

10 (13) "Certified postconsumer recycled content product" or  
11 "certified PCRC product" means:

12 (a) Plastic household cleaning products or personal care  
13 products, as defined in section 201 of this act, that are pesticide  
14 products regulated by the federal insecticide, fungicide, and  
15 rodenticide act, 7 U.S.C. Sec. 136 et seq., that are in direct  
16 contact with the regulated product, and that are excluded from the  
17 requirements of chapters 70A.--- (the new chapter created in section  
18 601 of this act) and 70A.--- RCW (the new chapter created in section  
19 602 of this act);

20 (b) Plastic trash bags; and

21 (c) Plastic plant pots and trays.

22 (14) "Plant pot or tray" means a single-use or durable container,  
23 material transport tray, or water collection tray used to grow,  
24 contain, cultivate, display, or transport plants or soil.

25 **Sec. 214.** RCW 70A.245.020 and 2021 c 313 s 3 are each amended to  
26 read as follows:

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

29 ~~(i) Beverages other than wine in 187 milliliter plastic beverage~~  
30 ~~containers and dairy milk in plastic beverage containers must meet~~  
31 ~~minimum postconsumer recycled content requirements established under~~  
32 ~~subsection (4) of this section; and~~

33 ~~(ii) Plastic trash bags must meet minimum postconsumer recycled~~  
34 ~~content requirements established under subsection (6) of this~~  
35 ~~section.~~

36 ~~(b) Beginning January 1, 2025, producers that offer for sale,~~  
37 ~~sell, or distribute in or into Washington household cleaning and~~  
38 ~~personal care products in plastic household cleaning and personal~~

1 ~~care product containers must meet minimum postconsumer recycled~~  
2 ~~content as required under subsection (5) of this section.~~

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

8 ~~(2)(a) On or before April 1, 2022, and annually thereafter, a~~  
9 ~~producer that offers for sale, sells, or distributes in or into~~  
10 ~~Washington covered products must register with the department~~  
11 ~~individually or through a third-party representative registering on~~  
12 ~~behalf of a group of producers.~~

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

25 ~~(3)(a) By January 31, 2022, and every January 31st thereafter,~~  
26 ~~the department must:~~

27 ~~(i) Prepare an annual workload analysis for public comment that~~  
28 ~~identifies the annual costs it expects to incur to implement,~~  
29 ~~administer, and enforce this section and RCW 70A.245.030 through~~  
30 ~~70A.245.060 and 70A.245.090 (1), (2), and (4), including rule making,~~  
31 ~~in the next fiscal year for each category of covered products;~~

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

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

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

6 ~~(v) Send notice to producers or their third-party representatives~~  
7 ~~of fee amounts due consistent with either the general order issued~~  
8 ~~under (a) (iii) of this subsection or rules adopted under (a) (iv) of~~  
9 ~~this subsection.~~

10 ~~(b) The department must:~~

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

14 ~~(ii) Increase annual payments for the coming year to cover the~~  
15 ~~department's costs, if the collected annual payment was less than the~~  
16 ~~department's costs for a given year.~~

17 ~~(c) By April 1, 2022, and every April 1st thereafter, producers~~  
18 ~~or their third-party representative must submit a fee payment as~~  
19 ~~determined by the department under (a) of this subsection.~~

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

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

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

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

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

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

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

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

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

1       ~~(5))~~) A producer of household cleaning ~~((and))~~ or plastic  
2 personal care products that are pesticide products regulated by the  
3 federal insecticide, fungicide, and rodenticide act, 7 U.S.C. Sec.  
4 136 et seq. that are in direct contact with the regulated product and  
5 that are excluded from the requirements of chapters 70A.--- (the new  
6 chapter created in section 601 of this act) and 70A.--- RCW (the new  
7 chapter created in section 602 of this act) in plastic containers  
8 must meet the following annual minimum postconsumer recycled content  
9 percentage on average for the total quantity of plastic containers,  
10 by weight, that are sold, offered for sale, or distributed in or into  
11 Washington by the producer effective:

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

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

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

18       ~~((6))~~) (2) A producer of plastic trash bags must meet the  
19 following annual minimum postconsumer recycled content percentage on  
20 average for the total quantity of plastic trash bags, by weight, that  
21 are sold, offered for sale, or distributed in or into Washington by  
22 the producer effective:

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

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

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

29       ~~((7)(a) Beginning January 1, 2024, or when rule making is~~  
30 ~~complete, whichever is sooner, the department may, on an annual basis~~  
31 ~~on January 1st,))~~ (3) A producer of plastic plant pots or trays must

32 meet the following annual minimum postconsumer recycled content  
33 percentage on average for the total quantity of covered products, by  
34 weight, that are sold, offered for sale, or distributed in or into  
35 Washington by the producer effective:

36       (a) January 1, 2026, through December 31, 2030: No less than 30  
37 percent postconsumer recycled content plastic by weight;

38       (b) On and after January 1, 2031: No less than 80 percent  
39 postconsumer recycled content plastic by weight.

1        (4) (a) By October 31st of each year, the department may review  
2 and determine for the following year whether to adjust the minimum  
3 postconsumer recycled content percentage (~~((required for a type of~~  
4 ~~container or product or category of covered products))~~) pursuant to  
5 subsection (~~((4), (5), or (6))~~) (1), (2), or (3) of this section. The  
6 department's review may be initiated by the department or at the  
7 petition of a producer or (~~(a covered product)~~) the certified PCRC  
8 product manufacturing industry not more than once annually. Petitions  
9 for review and adjustment must be made to the department by June 30th  
10 of the year prior to the year in which the adjustment would apply.  
11 When submitting a petition, producers or (~~(a producer)~~) the certified  
12 PCRC product manufacturing industry must provide necessary  
13 information that will allow the department to make a determination  
14 under (b) of this subsection.

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

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

20        (ii) Recycling rates;

21        (iii) The availability of recycled plastic suitable to meet the  
22 minimum postconsumer recycled content requirements pursuant to  
23 subsection (~~((4), (5), or (6))~~) (1), (2), or (3) of this section,  
24 including the availability of high quality recycled plastic (~~(, and~~  
25 ~~food-grade recycled plastic from recycling programs))~~;

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

27        (v) The technical feasibility of achieving the minimum  
28 postconsumer recycled content requirements in covered products that  
29 are regulated under 21 C.F.R., chapter I, subchapter G, 7 U.S.C. Sec.  
30 136, 15 U.S.C. Sec. 1471-1477, 49 C.F.R. Sec. 178.33b, 49 C.F.R. Sec.  
31 173, 40 C.F.R. Sec. 152.10, 15 U.S.C. Sec. 1261-1278, 49 U.S.C. 5101  
32 et seq., 49 C.F.R. Sec. 178.509, 49 C.F.R. Sec. 179.522, 49 C.F.R.  
33 Sec. 178.600-609, and other federal laws; and

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

36        (c) Under (a) of this subsection (~~(~~

37        ~~(i) The department may not adjust the minimum postconsumer~~  
38 ~~recycled content requirements above the minimum postconsumer recycled~~  
39 ~~content percentages for the year under review required pursuant to~~  
40 ~~subsection (4), (5), or (6) of this section.~~



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

6       ~~(iii) For plastic trash bags)),~~ the department may not adjust the  
7 minimum postconsumer recycled content requirements above the minimum  
8 postconsumer recycled content percentages for the year under review  
9 required pursuant to subsection ~~((6))~~ (1), (2), or (3) of this  
10 section or below the minimum percentage required in subsection  
11 ~~((6))~~ (1)(a), (2)(a), or (3)(a) of this section.

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

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

31       ~~((9))~~ (6) A producer that does not achieve the postconsumer  
32 recycled content requirements established under this section or does  
33 not comply with the labeling requirements established in chapter  
34 70A.245 RCW is subject to penalties established in RCW 70A.245.040.

35       ~~((10))~~ (7)(a) A city, town, county, or municipal corporation  
36 may not implement local recycled content requirements for ~~((a covered~~  
37 ~~product that is))~~ certified PCRC products that are subject to minimum  
38 postconsumer recycled content requirements established in this  
39 section.

1 (b) A city, town, county, or municipal corporation may establish  
2 local purchasing requirements that include recycled content standards  
3 that exceed the minimum recycled content requirements established by  
4 this chapter for ~~((plastic household cleaning and personal care  
5 product containers or plastic trash bags))~~ certified PCRC products  
6 purchased by a city, town, or municipal corporation, or its  
7 contractor.

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

11 ~~(12))~~ (8) In-state distributors, wholesalers, and retailers in  
12 possession of ~~((covered products))~~ certified PCRC products  
13 manufactured before the date that postconsumer recycled content  
14 requirements become effective may exhaust their existing stock  
15 through sales to the public.

16 **Sec. 215.** RCW 70A.245.030 and 2021 c 313 s 4 are each amended to  
17 read as follows:

18 (1) ~~((a) Except as provided in (b) and (c) of this subsection,  
19 beginning April 1, 2024, each producer of covered products,  
20 individually or through a third party representing a group of  
21 producers, must provide an annual report to the department that  
22 includes the amount in pounds of virgin plastic and the amount in  
23 pounds of postconsumer recycled content by resin type used for each  
24 category of covered products that are sold, offered for sale, or  
25 distributed in or into Washington state, including the total  
26 postconsumer recycled content resins as a percentage of total weight.  
27 The report must be submitted in a format and manner prescribed by the  
28 department. A manufacturer may submit national data allocated on a  
29 per capita basis for Washington to approximate the information  
30 required in this subsection if the producer or third-party  
31 representative demonstrates to the department that state level data  
32 are not available or feasible to generate.~~

33 ~~(b) The requirements of (a) of this subsection apply to household  
34 cleaning and personal care products in plastic containers beginning  
35 April 1, 2026.~~

36 ~~(c) The requirements of (a) of this subsection apply to wine in  
37 187 milliliter plastic beverage containers and dairy milk in plastic  
38 beverage containers beginning April 1, 2029.~~

1 ~~(d) The department must post the information reported under this~~  
2 ~~subsection on its website, except as provided in subsection (2) of~~  
3 ~~this section)) A plastic trash bag producer must maintain a  
4 certificate of compliance, conducted by a third-party certification  
5 entity, stating that a plastic trash bag is in compliance with the  
6 labeling requirements of RCW 70A.245.060 and the postconsumer  
7 recycled content requirements of RCW 70.245.020. A producer of other  
8 certified PCRC products must maintain a certificate of compliance  
9 stating that the certified PCRC product is in compliance with the  
10 postconsumer recycled content requirements of RCW 70A.245.020. A  
11 third-party certification entity must be an independent, accredited  
12 (ISO/IEC 17065) certifying body.~~

13 (2) A producer ~~((that submits information or records to the~~  
14 ~~department under this chapter may request that the information or~~  
15 ~~records be made available only for the confidential use of the~~  
16 ~~department, the director, or the appropriate division of the~~  
17 ~~department. The director of the department must give consideration to~~  
18 ~~the request and if this action is not detrimental to the public~~  
19 ~~interest and is otherwise in accordance with the policies and~~  
20 ~~purposes of chapter 43.21A RCW, the director must grant the request~~  
21 ~~for the information to remain confidential as authorized in RCW~~  
22 ~~43.21A.160)) shall develop a compliance certificate by the dates on  
23 which the postconsumer recycled content requirements in RCW  
24 70A.245.020 take effect for the producer's certified PCRC products.~~

25 (3) If compliance with minimum recycled content requirements is  
26 achieved through an adjustment made pursuant to RCW 70A.245.020(4),  
27 the certificate must state the specific basis upon which the  
28 exemption is claimed.

29 (4)(a) The certificate of compliance must be signed by an  
30 authorized official of the producer.

31 (b) The certificate of compliance must be kept on file by the  
32 producer for three years from the date of the last sale or  
33 distribution by the producer.

34 (c) A producer must furnish a certificate of compliance to the  
35 department upon request within 60 days.

36 (d) Requests from a member of the public for any certificate of  
37 compliance must be made in writing to the department and must be  
38 specific as to the certified PCRC product information requested. The  
39 department must respond to requests from a member of the public under  
40 this subsection within 90 days.

1 (e) If manufacturers are required under any other state statute,  
2 including chapter 70A.222 RCW, to provide a certificate of  
3 compliance, one certificate may be developed containing all required  
4 information.

5 (f) If the producer of the certified PCRC product reformulates or  
6 creates a new certified PCRC product, the producer shall develop an  
7 amended or new certificate of compliance for the reformulated or new  
8 certified PCRC product.

9 **Sec. 216.** RCW 70A.245.040 and 2021 c 313 s 5 are each amended to  
10 read as follows:

11 ~~(1) ((a) A producer that does not meet the minimum postconsumer~~  
12 ~~recycled content requirements pursuant to RCW 70A.245.020 is subject~~  
13 ~~to a penalty pursuant to this section. Beginning June 1st of the year~~  
14 ~~following the first year that minimum postconsumer recycled product~~  
15 ~~content requirements apply to a category of covered product, the~~  
16 ~~penalty must be calculated consistent with subsection (2) of this~~  
17 ~~section unless a penalty reduction or corrective action plan has been~~  
18 ~~approved pursuant to subsection (3) of this section.~~

19 ~~(b) A producer that is assessed a penalty pursuant to this~~  
20 ~~section may pay the penalty to the department in one payment, in~~  
21 ~~quarterly installments, or arrange an alternative payment schedule~~  
22 ~~subject to the approval of the department, not to exceed a 12-month~~  
23 ~~payment schedule unless the department determines an extension is~~  
24 ~~needed due to unforeseen circumstances, such as a public health~~  
25 ~~emergency, state of emergency, or natural disaster.~~

26 ~~(2) Beginning June 1st of the year following the first year that~~  
27 ~~minimum postconsumer recycled product content requirements apply to a~~  
28 ~~category of covered product, and annually thereafter, the department~~  
29 ~~shall determine the penalty for the previous calendar year based on~~  
30 ~~the postconsumer recycled content requirement of the previous~~  
31 ~~calendar year. The department shall calculate the amount of the~~  
32 ~~penalty based upon the amounts in pounds in the aggregate of virgin~~  
33 ~~plastic, postconsumer recycled content plastic, and any other plastic~~  
34 ~~per category used by the producer to produce covered products sold or~~  
35 ~~offered for sale in or into Washington state, in accordance with the~~  
36 ~~following:~~

37 ~~(a) (i) The annual penalty amount assessed to a producer must~~  
38 ~~equal the product of both of the following: The total pounds of~~  
39 ~~plastic used per category multiplied by the relevant minimum~~

1 ~~postconsumer recycled plastic target percentage, less the pounds of~~  
2 ~~total plastic multiplied by the percent of postconsumer recycled~~  
3 ~~plastic used; multiplied by 20 cents.~~

4 ~~(ii) Example: [(Total pounds of plastic used x minimum~~  
5 ~~postconsumer recycled plastic target percentage) - (Total pounds of~~  
6 ~~plastic used x postconsumer recycled plastic percentage used)] x 20~~  
7 ~~cents.~~

8 ~~(b) For the purposes of (a) of this subsection, both of the~~  
9 ~~following apply:~~

10 ~~(i) The total pounds of plastic used must equal the sum of the~~  
11 ~~amount of virgin plastic, postconsumer recycled content plastic, and~~  
12 ~~any other plastic used by the producer, as reported pursuant to RCW~~  
13 ~~70A.245.030.~~

14 ~~(ii) If the product calculated pursuant to (a) of this subsection~~  
15 ~~is equal to or less than zero, the department may not assess a~~  
16 ~~penalty.~~

17 ~~(3) (a) (i) The department shall consider granting a reduction of~~  
18 ~~penalties assessed pursuant to this section for the purpose of~~  
19 ~~meeting the minimum postconsumer recycled content requirements~~  
20 ~~required pursuant to RCW 70A.245.020.~~

21 ~~(ii) In determining whether to grant the reduction pursuant to~~  
22 ~~(a) (i) of this subsection, the department shall consider, at a~~  
23 ~~minimum, all of the following factors:~~

24 ~~(A) Anomalous market conditions;~~

25 ~~(B) Disruption in, or lack of supply of, recycled plastics; and~~

26 ~~(C) Other factors that have prevented a producer from meeting the~~  
27 ~~requirements.~~

28 ~~(b) In lieu of or in addition to assessing a penalty under this~~  
29 ~~section, the department may require a producer to submit a corrective~~  
30 ~~action plan detailing how the producer plans to come into compliance~~  
31 ~~with RCW 70A.245.020.~~

32 ~~(4) For the purposes of determining compliance with the~~  
33 ~~postconsumer recycled content requirements of this chapter, the~~  
34 ~~department may consider the date of manufacture of a covered product~~  
35 ~~or the container of a covered product.~~

36 ~~(5) A producer shall pay the penalty assessed pursuant to this~~  
37 ~~section, as applicable, based on the information reported to the~~  
38 ~~department as required under RCW 70A.245.030 in the form and manner~~  
39 ~~prescribed by the department.~~

1 ~~(6))~~ (a) The department may assess a civil penalty to a producer  
2 in violation of the requirements of RCW 70A.245.020, 70A.245.030, or  
3 70A.245.060 in the amount of up to \$2,000 for the first violation of  
4 this chapter, up to \$5,000 for the second violation of this chapter,  
5 and up to \$10,000 for the third and any subsequent violation of RCW  
6 70A.245.020, 70A.245.030, or 70A.245.060.

7 (b) A specific violation is deemed to have occurred upon the sale  
8 of noncompliant product by stock-keeping unit number or unique item  
9 number. The repeated sale of the same noncompliant product by stock-  
10 keeping unit number or unique item number is considered a single  
11 violation.

12 (2) In addition to the penalties authorized under subsection (1)  
13 of this section, the department may prohibit the sale of any  
14 certified PCRC products for which a manufacturer has failed to  
15 respond to a request by the department for a certificate of  
16 compliance within 60 days.

17 (3) For the purposes of determining compliance with the  
18 postconsumer recycled content requirements of this chapter, the  
19 department may consider the date of manufacture of a certified PCRC  
20 product.

21 (4) A producer may appeal the penalty assessed under this section  
22 to the pollution control hearings board within 30 days of assessment.

23 ~~((7))~~ (5) Penalties collected under this section must be  
24 deposited in the recycling enhancement account created in RCW  
25 70A.245.100.

26 **Sec. 217.** RCW 70A.245.090 and 2021 c 313 s 12 are each amended  
27 to read as follows:

28 ~~(1) ((The department may conduct audits and investigations for~~  
29 ~~the purpose of ensuring compliance with RCW 70A.245.020 and~~  
30 ~~70A.245.040 based on the information reported under RCW 70A.245.030.~~

31 ~~(2) The department shall annually publish a list of registered~~  
32 ~~producers of covered products and associated brand names, their~~  
33 ~~compliance status, and other information the department deems~~  
34 ~~appropriate on the department's website.~~

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

37 (a) Must prepare and post on its website information regarding  
38 the prohibitions on the sale and distribution of expanded polystyrene

1 products as specified under RCW 70A.245.070 and restrictions on the  
2 provision of optional serviceware under RCW 70A.245.080;

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

8 ~~((4))~~ (2) The department may adopt rules as necessary to  
9 administer, implement, and enforce this chapter.

10 **Sec. 218.** RCW 70A.245.100 and 2021 c 313 s 13 are each amended  
11 to read as follows:

12 The recycling enhancement account is created in the custody of  
13 the state treasurer. All penalties collected by the department  
14 pursuant to RCW 70A.245.040 ~~((and))~~, 70A.245.050, and sections 123,  
15 211, and 319 must be deposited in the account. Only the director of  
16 the department or the director's designee may authorize expenditures  
17 from the account. The account is subject to the allotment procedures  
18 under chapter 43.88 RCW, but an appropriation is not required for  
19 expenditures. Expenditures from the account may be used by the  
20 department only for providing grants to local governments for the  
21 purpose of supporting local solid waste and financial assistance  
22 programs.

23 **Sec. 219.** RCW 70A.245.120 and 2021 c 313 s 15 are each amended  
24 to read as follows:

25 (1) Subject to the availability of amounts appropriated for this  
26 specific purpose prior to January 1, 2028, the department shall  
27 contract with a research university or an independent third-party  
28 consultant to study the plastic resin markets for all of the  
29 following:

30 (a) Analyzing market conditions and opportunities in the state's  
31 recycling industry for meeting the minimum postconsumer recycled  
32 content requirements for ~~((covered products))~~ certified PCRC products  
33 pursuant to RCW 70A.245.020 and 70A.245.030 for products subject to  
34 minimum postconsumer recycled content requirements under chapter  
35 70A.--- RCW (the new chapter created in section 601 of this act); and

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

1 (2) If funding is provided pursuant to subsection (1) of this  
2 section and the department undertakes the study, the study must be  
3 completed by May 1, 2029. The requirements of this section may be  
4 satisfied through a needs assessment as described in section 105(6)  
5 of this act.

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

7 **Sec. 220.** RCW 70A.245.060 and 2021 c 313 s 7 are each amended to  
8 read as follows:

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

12 (a) The name of the producer and the city, state, and country  
13 where the producer is located, which may be designated as the  
14 location of the producer's corporate headquarters, and, beginning  
15 January 1, 2025, the percentage of postconsumer recycled content that  
16 the plastic trash bag contains; or

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

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

23 (b) For the purposes of this subsection:

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

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

### 28 **Part Three**

#### 29 **Reimbursable Deposit Program Standards (Beverage Container Deposit** 30 **Program Provisions)**

31 NEW SECTION. **Sec. 301.** INTENT. (1) The legislature finds that  
32 the department of ecology was directed, through an independent  
33 consultant, to study how plastic packaging is managed in the state,  
34 to assess various policy options, and to provide recommendations to  
35 achieve certain goals, which included:

36 (a) Plastic packaging sold into the state is 100 percent  
37 recyclable, reusable, or compostable by January 1, 2025;



1 (b) Plastic packaging sold into the state incorporates at least  
2 20 percent postconsumer recycled content by January 1, 2025; and

3 (c) Plastic packaging is reduced when possible and optimized to  
4 meet the need for it.

5 (2) The legislature also finds that the study recommendations  
6 included establishing an extended producer responsibility policy for  
7 all consumer packaging and paper with a framework that makes  
8 producers responsible for achieving specific management and  
9 environmental outcomes for the consumer packaging they supply into  
10 Washington state. In addition, the legislature finds that the study  
11 recommends that a deposit return system is an effective way for  
12 producers to meet outcomes required by an extended producer  
13 responsibility framework.

14 (3) The legislature further intends that packaging materials be  
15 recycled or reused through extended producer responsibility programs,  
16 including a deposit return system for qualifying beverage containers.  
17 It is the intent of the legislature that extended producer  
18 responsibility programs be implemented by and for producers of  
19 plastic packaging and other material types so that the design and  
20 management of their packaging is accomplished in a manner that  
21 ensures minimal environmental impact, involves producers from design  
22 concept to end-of-life management, and incentivizes innovation and  
23 industry stewardship to minimize environmental impacts.

24 NEW SECTION. **Sec. 302.** DEFINITIONS. The definitions in this  
25 section apply throughout this chapter unless the context clearly  
26 requires otherwise.

27 (1) "Dealer" means a retail establishment, as that term is  
28 defined in section 102 of this act, that engages in the sale of  
29 beverages in qualifying beverage containers.

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

31 (3) "Deposit return system" means a beverage container redemption  
32 program that pays a per-unit refund value to consumers for qualifying  
33 beverage containers and collects and processes qualifying beverage  
34 containers as described in section 307 of this act.

35 (4) "Distributor" means every person or entity who engages in the  
36 sale of beverages in beverage containers to a dealer in this state,  
37 including any manufacturer or importer who engages in such sales, and  
38 dealers who self-distribute their own brands.

1 (5) "Distributor responsibility organization" means a cooperative  
2 association as defined in chapter 23.86 RCW, or an alternative  
3 structure as approved by the department, that is designated by a  
4 group of distributors representing the majority of beverages sold in  
5 qualifying beverage containers in the state, to develop and carry out  
6 the activities required of distributors by this chapter.

7 (6) "Qualifying beverage container" means beverage containers as  
8 described in section 307(2) of this act.

9 NEW SECTION. **Sec. 303.** RELATIONSHIP WITH CHAPTER 70A.--- RCW  
10 (THE NEW CHAPTER CREATED IN SECTION 601 OF THIS ACT). (1)(a) As an  
11 alternative to satisfying their compliance obligation under chapter  
12 70A.--- RCW (the new chapter created in section 601 of this act) for  
13 qualifying beverage containers, a producer responsibility  
14 organization and the department may not consider qualifying beverage  
15 containers to be covered products for purposes of chapter 70A.--- RCW  
16 (the new chapter created in section 601 of this act) upon a  
17 distributor responsibility organization's establishment and operation  
18 of a deposit return system for the qualifying beverage containers  
19 described in section 307(2) of this act.

20 (b) A producer of qualifying beverage containers subject to the  
21 requirements of this chapter must satisfy postconsumer recycled  
22 content requirements established in chapter 70A.--- RCW (the new  
23 chapter created in section 602 of this act) through limited  
24 participation in a producer responsibility organization only for  
25 purposes of chapter 70A.--- RCW (the new chapter created in section  
26 602 of this act).

27 (2) This chapter, relating to the establishment of a deposit  
28 return system, establishes requirements for the management of the  
29 containers described in section 307(2) of this act.

30 (3)(a) The requirements of sections 304 through 319 of this act  
31 do not apply to qualifying beverage containers unless and until a  
32 distributor responsibility organization, other than a single  
33 distributor independently complying with the requirements of a  
34 distributor responsibility organization in this chapter, is  
35 established and files a written notice with the department at, or  
36 prior to, the time of producer responsibility organization  
37 registration under chapter 70A.--- RCW (the new chapter created in  
38 section 601 of this act), that the distributor responsibility  
39 organization will establish and operate a deposit return system.

1 (b) Upon the receipt of the written notice by the department  
2 under (a) of this subsection, all qualifying beverage containers of  
3 all producers subject to the requirements of chapter 70A.--- RCW (the  
4 new chapter created in section 601 of this act) cease to be  
5 considered covered products for purposes of chapter 70A.--- RCW (the  
6 new chapter created in section 601 of this act) and are instead  
7 subject to the requirements of this chapter.

8 (c) Nothing in this section excludes packaging associated with  
9 qualifying beverage containers, other than the qualifying beverage  
10 container itself and any closures or labels, from the requirements of  
11 chapter 70A.--- RCW (the new chapter created in section 601 of this  
12 act).

13 (4) If a distributor responsibility organization, other than a  
14 single distributor independently fulfilling the requirements of a  
15 distributor responsibility organization, is approved by the  
16 department and operates a deposit return system as described in  
17 section 307 of this act, all qualifying beverage containers are  
18 included in the deposit return system and all requirements of this  
19 chapter apply to the distributors of qualifying beverage containers.

20 NEW SECTION. **Sec. 304.** DISTRIBUTOR RESPONSIBILITY ORGANIZATION  
21 DUTIES. (1) Beginning July 1, 2024, or four months after a  
22 distributor responsibility organization is approved by the  
23 department, whichever is later, each distributor that offers for  
24 sale, sells, or distributes in or into Washington beverages in  
25 qualifying beverage containers must join a distributor responsibility  
26 organization or independently carry out all duties and requirements  
27 of a distributor responsibility organization described in this  
28 chapter including, but not limited to, the following: (a) Providing a  
29 convenient bulk bag drop-off system as described in section 307(5) of  
30 this act that accepts all qualifying beverage containers in the same  
31 bag, and at no cost to consumers; (b) providing the same number, and  
32 geographic distribution, of drop-off locations as required of a  
33 distributor responsibility organization; (c) paying to consumers the  
34 refund value of qualifying beverage containers; (d) meeting the  
35 performance targets described in section 306 of this act; (e) paying  
36 all applicable performance penalties; and (f) fulfilling all  
37 reporting requirements in this chapter.

38 (2) To qualify as a distributor responsibility organization,  
39 other than an individual distributor independently fulfilling the

1 duties required of a distributor responsibility organization, and be  
2 approved by the department as described in section 305 of this act, a  
3 distributor responsibility organization must demonstrate to the  
4 department's satisfaction that its initial membership represents the  
5 majority of beverages in qualifying beverage containers sold or made  
6 available for sale in the state. Distributors may not be initial  
7 members of more than one distributor responsibility organization  
8 registering with the department. Distributors that have not joined a  
9 distributor responsibility organization, or that do not independently  
10 fulfill the duties required of a distributor responsibility  
11 organization, may not sell or supply beverages in qualifying beverage  
12 containers after October 1, 2024, or 120 days after a distributor  
13 responsibility organization is approved by the department, whichever  
14 is later, in or into Washington. Any distributor that operates in  
15 violation of this requirement is subject to penalties and damages as  
16 described in sections 305 and 307 of this act.

17 (3) A distributor responsibility organization registering with  
18 the department must submit with its registration the following:

19 (a) A list of its member distributors and their brands of  
20 beverages in qualifying beverage containers; and

21 (b) The total gross sales volume of beverages in qualifying  
22 beverage containers distributed by its members in Washington during  
23 the preceding year, representing, to the satisfaction of the  
24 department, a majority of such sales in the state.

25 (4) Until a distributor responsibility organization begins to  
26 submit annual reports as specified in section 309 of this act, by  
27 January 15th of each year a distributor responsibility organization  
28 must submit the following data for the prior calendar year:

29 (a) A list of its member distributors and their brands of  
30 beverages in qualifying beverage containers; and

31 (b) The number of qualifying beverage containers sold or made  
32 available for sale in the state, by material category and size. A  
33 distributor responsibility organization may rely on member reporting  
34 for the reporting requirements in this section.

35 (5) By June 30th of the fiscal year of initial distributor  
36 responsibility organization registration and every June 30th  
37 thereafter, a distributor responsibility organization registered with  
38 the department must submit an annual payment to the department to  
39 fund the costs to implement, administer, and enforce this chapter,  
40 including rule making.

1 (6) Beginning July 1, 2026, or within 180 days of the first  
2 adoption of rules relating to this chapter, whichever is later, a  
3 distributor responsibility organization approved by the department as  
4 described in section 305 of this act must submit a plan to the  
5 department that meets the requirements of a deposit return system as  
6 specified in section 307 of this act.

7 (7) A distributor responsibility organization registered with the  
8 department must implement a deposit return system, as specified in  
9 section 307 of this act, by July 1, 2027, or within one year of first  
10 adoption of rules relating to this chapter, whichever is later.

11 (8) A distributor responsibility organization registered with the  
12 department may require deposits to be collected to offset the refund  
13 value up to 60 days prior to the start of the deposit return system.

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

25 (10) A distributor responsibility organization may not distribute  
26 or otherwise disseminate funds from unclaimed refunds to members of  
27 the distributor cooperative, or alternative structure approved by the  
28 department, as a dividend, and shall report on this requirement  
29 annually in the manner described in section 309 of this act.

30 (11) A manufacturer distributor producing a de minimis quantity  
31 of beverages in qualifying beverage containers may alternatively  
32 comply with the requirements of this chapter by operating an  
33 independent refund program approved by the department, as described  
34 in section 312 of this act.

35 NEW SECTION. **Sec. 305.** DEPARTMENT DUTIES. (1) The department  
36 shall implement, administer, and enforce this chapter. The department  
37 may adopt rules to implement, administer, and enforce this chapter.

38 (2) By April 1st of each year after a distributor responsibility  
39 organization has notified the department of its intent to implement a

1 deposit return system under section 303 of this act, the department  
2 must:

3 (a) Prepare a workload analysis that, as narrowly, efficiently,  
4 and cost-effectively as possible, identifies the annual costs to  
5 implement, administer, and enforce this chapter, including rule  
6 making, in the next fiscal year;

7 (b) Determine a total annual fee payment to be paid by a  
8 distributor responsibility organization to cover, but not exceed, the  
9 costs of implementing, administering, and enforcing this chapter  
10 identified through the workload analysis; and

11 (c) Send notice to a distributor responsibility organization of  
12 fee amounts due.

13 (3) (a) The department shall review new, updated, and revised  
14 registrations submitted by a distributor responsibility organization  
15 as required in section 304 of this act. The department shall not  
16 approve the registration of a distributor responsibility organization  
17 whose initial membership at the time of registration does not  
18 represent a majority of beverages in qualifying beverage containers  
19 sold or made available for sale in Washington the prior year. The  
20 department shall:

21 (i) Approve the registration of a distributor responsibility  
22 organization whose initial membership at the time of registration  
23 represents, to the department's satisfaction, a majority of beverages  
24 in qualifying beverage containers sold or made available for sale in  
25 Washington the prior year; and

26 (ii) Make a determination, when applicable, as to whether the  
27 distributor responsibility organization's plan, plan update, or plan  
28 revision meets the criteria established in section 307 of this act.

29 (b) The department shall notify the distributor responsibility  
30 organization of:

31 (i) The department's approval of a plan, if the plan provides for  
32 a program that meets the requirements of section 307 of this act; or

33 (ii) The department's disapproval of a plan, and its reasons for  
34 disapproval, if the department determines the plan does not meet the  
35 requirements of section 307 of this act.

36 (c) If a distributor responsibility organization's plan is not  
37 approved by the department, the distributor responsibility  
38 organization must submit a new or revised plan within 60 days after  
39 receipt of the department's letter of disapproval.

1 (4) The department shall receive the annual reports submitted by  
2 a distributor responsibility organization, or individual distributor  
3 independently complying with the requirements of this chapter,  
4 pursuant to section 309 of this act and:

5 (a) Ensure the reports contain the items required in sections 304  
6 and 309 of this act; and

7 (b) Make public the annual reporting required of the distributor  
8 responsibility organization registered by the department, and any  
9 individual distributor independently complying with the requirements  
10 of this chapter, as described in sections 304 and 309 of this act.

11 (5)(a) In order to determine compliance with the provisions of  
12 section 306(2) of this act, the department may, within six months of  
13 the date that the department receives a report as described in  
14 section 309 of this act, review the records of a distributor  
15 responsibility organization specifically related to the accuracy of  
16 the redemption rate. The records specifically related to the accuracy  
17 of the redemption rate do not include financial details of a  
18 distributor responsibility organization.

19 (b) If in the course of a review described in (a) of this  
20 subsection the department determines that an audit of a distributor  
21 responsibility organization is necessary to verify the redemption  
22 rate, the department shall require the distributor responsibility  
23 organization to retain an independent audit firm to determine the  
24 accuracy of the redemption rate. The scope of the audit must be  
25 limited to records specifically related to the accuracy of the  
26 redemption rate. A distributor responsibility organization that is  
27 subject to review shall pay the costs of the audit. The audit must be  
28 limited to the records described in (a) of this subsection.

29 (6) In lieu of the payment described in section 304(5) of this  
30 act and subsection (2) of this section, after October 1, 2024, or 120  
31 days after a distributor responsibility organization is approved by  
32 the department, whichever is later, a distributor independently  
33 carrying out the duties and requirements of a distributor  
34 responsibility organization described in this chapter shall pay a  
35 registration fee to the department equal to 10 cents per qualifying  
36 beverage container until such time as a distributor responsibility  
37 organization begins operating a deposit return system.

38 (7)(a) After July 1, 2027, or the date in which a distributor  
39 responsibility organization begins operating a deposit return system,  
40 whichever is later, and after notification of noncompliance from the

1 department and a 60-day cure period, the department shall  
2 administratively impose a civil penalty to any distributor who fails  
3 to participate in a distributor responsibility organization as  
4 specified in section 304 of this act, or fails to otherwise comply  
5 with the requirements of this chapter by independently carrying out  
6 the duties of a distributor responsibility organization described in  
7 this chapter, which shall be at least 15 cents per qualifying  
8 beverage container sold or made available for sale by that  
9 distributor in the state, or \$10,000, whichever is greater.

10 (b) Any distributor who incurs a penalty under this section may  
11 appeal the penalty to the pollution control hearings board  
12 established in chapter 43.21B RCW.

13 (c) Fees paid under subsection (6) of this section must be  
14 deposited into the deposit return organization program account  
15 created in section 318 of this act and used by the department to  
16 offset costs of implementing the requirements in this chapter. The  
17 department shall direct and store any excess funds to make available  
18 to the recycling revenue augmentation fund described in section 317  
19 of this act.

20 (d) Penalties levied under this section must be deposited into  
21 the deposit return organization program account created in section  
22 318 of this act and be used to support the duties of the department  
23 described in this section.

24 NEW SECTION. **Sec. 306.** REUSE AND RECYCLING PERFORMANCE  
25 REQUIREMENTS. (1) To meet the reuse and recycling performance  
26 requirements established in this section, a distributor  
27 responsibility organization must:

28 (a) Demonstrate that all qualifying beverage containers are  
29 designed to be reusable or recyclable by January 1, 2031, in  
30 accordance with criteria established by the department; and

31 (b) Calculate the reuse sales rate and the redemption rate of  
32 qualifying beverage containers and provide the verification to the  
33 department as part of the annual reporting requirements. The reuse  
34 sales rate is the number of units in reusable packaging sold in a  
35 year. For materials reclaimed under a deposit return system, the  
36 calculation point for the redemption rate is the number of qualifying  
37 beverage containers redeemed statewide by the distributor  
38 responsibility organization divided by the number of qualifying



1 beverage containers sold in the state by members of the distributor  
2 responsibility organization.

3 (2) At a minimum, each plan must achieve the following  
4 performance requirements:

5 (a) By 2028, a minimum of 60 percent of all qualifying beverage  
6 containers supplied into the state are redeemed for reuse or  
7 recycling through the deposit return system;

8 (b) By 2031, a minimum of 80 percent of all qualifying beverage  
9 containers supplied into the state are redeemed for reuse or  
10 recycling through the deposit return system; and

11 (c) By December 31, 2031, sales of beverages in reusable  
12 packaging must reach at least one percent of all qualifying beverage  
13 containers.

14 NEW SECTION. **Sec. 307.** DEPOSIT RETURN SYSTEM. (1) The  
15 department shall make a determination of approval of a distributor  
16 responsibility organization's plan, or plan update, to operate a  
17 deposit return system for qualifying beverage containers based on the  
18 criteria in this section:

19 (a) The distributor responsibility organization's registration  
20 with the department meets the requirements described in sections 304  
21 and 305 of this act;

22 (b) The distributor responsibility organization presents a plan  
23 that imposes a refund value of 10 cents for all qualifying beverage  
24 containers covered under the plan;

25 (c) The plan or plan update includes a method for paying the  
26 refund value and collecting qualifying beverage containers from  
27 consumers, including a plan to provide convenient bulk, bagged  
28 returns, and a plan to accept direct, sorted returns at its  
29 processing facilities for an additional refund value premium if the  
30 containers are returned by organizations certified as nonprofit  
31 organizations pursuant to section 501(c)(3) of the internal revenue  
32 code that are approved by the distributor responsibility organization  
33 and serve very low-income individuals who rely on regular container  
34 refunds through the deposit return system as a source of daily funds;

35 (d) Includes in the plan a process for annually reporting to the  
36 department regarding the names, locations, return volume, cost per  
37 container for each partnership, and other services provided through  
38 the partnerships described in (c) of this subsection; and

1 (e) Includes a description of how the distributor responsibility  
2 organization and the deposit return system will coordinate with other  
3 recycling systems and processes, including exploring the potential  
4 for colocating facilities as described in section 308 of this act,  
5 establishing policies to facilitate the redemption of materials from  
6 other recycling pathways as described in section 314 of this act, and  
7 providing clear communications about which products are included in  
8 the deposit return system as described in section 313 of this act.

9 (2) A deposit return system must include the following qualifying  
10 beverage containers:

11 (a) Except as provided in (b) of this subsection, any individual,  
12 separate, sealed glass, metal, or plastic bottle or can, except for a  
13 carton, foil pouch, drink box, or metal container that requires a  
14 tool to be opened, that contains any beverage intended for human  
15 consumption and in a quantity of greater than four ounces and less  
16 than or equal to one gallon.

17 (b) The requirements of this chapter do not apply to beverages  
18 with dairy milk as the first ingredient or infant formula.

19 (3) If a deposit return system is approved by the department,  
20 then for the duration of the plan, all qualifying beverage containers  
21 sold or offered for sale in the state of Washington:

22 (a) Must carry a 10 cent refund value;

23 (b) Must be registered at least annually with the distributor  
24 responsibility organization by the producer or distributor, including  
25 information on the brand, size, container material type or types,  
26 beverage type, bar code or stock keeping unit information, and total  
27 number of containers of each type, size, and brand sold in the state  
28 of Washington;

29 (c) Must be sold by a distributor, importer, or producer that is  
30 a member of the distributor responsibility organization submitting  
31 the deposit return system plan for qualifying beverage containers or  
32 an individual distributor independently carrying out the duties  
33 required of a distributor responsibility organization described in  
34 this chapter; and

35 (d) Must carry a clear and conspicuous marking indicating the  
36 refund value of the container in the state of Washington. This  
37 requirement may be satisfied through the abbreviation "WARV" or any  
38 other standard abbreviation approved by the department. A beverage  
39 container for wine may satisfy the requirement to indicate the refund  
40 value of the container through the use of a quick response code.

1 (4) (a) In lieu of any other penalties for not achieving the  
2 performance criteria in section 306 of this act, should the  
3 redemption rate performance requirements described in section 306 of  
4 this act not be met, the distributor responsibility organization  
5 shall annually calculate the number of containers representing the  
6 difference between the redemption rate of qualifying beverage  
7 containers and the redemption rate performance requirements described  
8 in section 306(2) (a) and (b) of this act, and pay a penalty that is  
9 equal to 10 cents times the number of containers representing the  
10 difference.

11 (b) At the sole discretion of the department, if the requirements  
12 in (a) of this subsection result in a penalty to be paid by the  
13 distributor responsibility organization, the department may  
14 alternatively identify priority areas for additional drop-off access  
15 to be provided, and the department and the distributor responsibility  
16 organization may agree to provide additional access accordingly. If  
17 agreement is not reached, the financial penalty in (a) of this  
18 subsection must be paid.

19 (c) There is no penalty assessed on the distributor  
20 responsibility organization related to the reuse performance  
21 requirements described in section 306 of this act.

22 (5) The distributor responsibility organization must, at its own  
23 cost, provide a convenient bulk drop-off option for bagged qualifying  
24 beverage containers at geographically dispersed locations in  
25 Washington that sell beverages in qualifying beverage containers, are  
26 located a convenient distance from a dealer, or are located at a  
27 publicly owned facility. The distributor responsibility organization  
28 may not charge customers for this drop-off service and must credit  
29 the cost of any required bag purchase back to the customer when the  
30 bag is processed. If drop-off bags are made of plastic film, bags  
31 must have a minimum 50 percent recycled content and the distributor  
32 responsibility organization must be able to demonstrate that waste  
33 film from bags is being recycled in the best commercially available  
34 manner.

35 (6) Upon launch of the deposit return system, the distributor  
36 responsibility organization shall provide at least 270 bag drop sites  
37 around the state, with at least one drop site located in each county,  
38 and at least one drop site located in each island community served by  
39 the Washington state ferries system, distributed by county  
40 proportional to the volume of qualifying beverage containers sold in

1 each county. The distributor responsibility organization shall  
2 calculate a drop-off capacity formula that is equal to the ratio of  
3 drop-off locations to total sales of beverages in qualifying beverage  
4 containers represented by the initial deployment of 270 sites, and  
5 the number of beverages in qualifying beverage containers sold the  
6 year prior to the year the distributor responsibility organization  
7 begins operating a deposit return system in Washington. Within two  
8 years of the date in which the distributor responsibility  
9 organization begins operating a deposit return system, the  
10 distributor responsibility organization shall add an additional 10  
11 drop-off locations. The locations of the additional 10 drop-off sites  
12 must be agreed upon by the distributor responsibility organization  
13 and the department, in consultation with the consumer convenience  
14 advisory council established in section 310 of this act, balancing  
15 the need for consumer convenience and access in rural counties, small  
16 cities, and underserved areas, and data regarding where beverages in  
17 qualifying beverage containers are sold. Five years after the  
18 distributor responsibility organization is required to provide 280  
19 drop-off locations, and every five years after that, the distributor  
20 responsibility organization shall calculate an updated number of  
21 drop-off locations required using the drop-off capacity formula. If  
22 this calculation determines that the distributor responsibility  
23 organization needs to add additional drop-off sites to reach the  
24 number required by the capacity formula, the distributor  
25 responsibility organization shall provide the department with a list  
26 of proposed new locations, equal to the number determined by the  
27 drop-off capacity formula, based on input from the consumer  
28 convenience advisory council established in section 310 of this act,  
29 consideration of consumer convenience, and data regarding where  
30 beverage sales occur. The distributor responsibility organization  
31 shall make the new drop-off locations available within three years.  
32 Drop-off locations may be located at dealers, or any other retail  
33 establishment, publicly owned facility, or any other location  
34 convenient to consumers but nothing in this chapter may be  
35 interpreted to create a legal obligation on the part of dealers  
36 either to accept returned qualifying beverage containers or allow a  
37 drop-off location to be sited at a dealer. Local governments shall  
38 coordinate with the distributor responsibility organization to  
39 identify opportunities for the siting of necessary collection  
40 infrastructure including, where appropriate, on city and county

1 properties, to help ensure convenient access across the state. All  
2 sites must be paid for in full by the distributor responsibility  
3 organization. The distributor responsibility organization may provide  
4 an alternative access plan for any county that has not reached the  
5 required number of drop-off locations and the department may approve  
6 an alternative access plan for that county if it deems the  
7 alternative access plan for that county to be similarly convenient to  
8 consumers as the proportional drop site requirement. The distributor  
9 responsibility organization shall pay for the cost of these  
10 facilities.

11 (7) Unless otherwise specified in a distributor responsibility  
12 organization's bylaws or in a contract between a distributor  
13 responsibility organization and an individual distributor arranging  
14 specifically for the collection of beverage containers sold for the  
15 purpose of consumption on premises, any manufacturer, distributor, or  
16 importer that fails to pay to a distributor responsibility  
17 organization the refund value of qualifying beverage containers  
18 included in this chapter is liable to the distributor responsibility  
19 organization for treble the unpaid refund value and treble the  
20 collection costs incurred by the distributor responsibility  
21 organization for any beverage containers that were sold without the  
22 refund value of the container being remitted to the distributor  
23 responsibility organization.

24 (8) The distributor responsibility organization is not required  
25 to accept or pay refunds for:

26 (a) Beverage containers visibly containing or contaminated by a  
27 substance other than water, residue of the original contents, or  
28 ordinary dust;

29 (b) Beverage containers that are crushed, broken, or damaged to  
30 the extent that the brand appearing on the container cannot be  
31 identified; or

32 (c) Any beverage container for which the distributor  
33 responsibility organization has reasonable grounds to believe was not  
34 purchased through the state's deposit return system or for which a  
35 refund has already been given.

36 (9) If the distributor responsibility organization uses automated  
37 industrial counting equipment to count containers returned in bulk  
38 and credit refund values to consumers, the distributor responsibility  
39 organization may use commercially viable methods of counting, and

1 shall have a customer service system, which serves as the remedy to  
2 resolve complaints and discrepancies.

3 (10) The distributor responsibility organization may create  
4 reasonable terms and conditions for participation in the program.

5 (11) For the first five years in which a deposit return system is  
6 operated by a distributor responsibility organization in this state,  
7 a distributor responsibility organization shall remit \$15,000,000 by  
8 December 31st of each year for the first five years in which it  
9 operates a deposit return system, to the department of commerce's  
10 recycling revenue augmentation fund created in section 317 of this  
11 act. If the first year of operations of a deposit return system  
12 begins after January 1st, the payment amount shall be prorated in  
13 accordance with the portion of the year in which the deposit return  
14 system is operating. These payments constitute the full financial  
15 obligation of the distributor responsibility organization to the  
16 recycling revenue augmentation fund created in section 317 of this  
17 act.

18 (12)(a) All retailers over 5,000 square feet and with qualifying  
19 beverage unit sales greater than 100,000 annually must install a  
20 self-serve kiosk, provided at no charge by the distributor  
21 responsibility organization, to facilitate the printing of redemption  
22 vouchers, pay the value of redemption vouchers to customers, and must  
23 sell bags for redemption at the price established by the distributor  
24 responsibility organization. The distributor responsibility  
25 organization shall reimburse dealers for the value of valid vouchers  
26 redeemed by customers. Dealers may additionally offer a voucher  
27 redemption option for funds to be used as store credit. There is no  
28 other cost or requirement for retailers associated with container  
29 redemption.

30 (b) Storage and drop-off containers sited for the purposes of  
31 fulfilling the requirements of this section are considered mobile  
32 containers regardless of whether they have wheels, have electrical  
33 power, or are affixed to the site.

34 (c) The distributor responsibility organization shall establish a  
35 geographically distributed network of processing facilities across  
36 the state for the purpose of counting, crediting, sorting, and  
37 compacting bagged container returns and facilitating the program for  
38 organizations certified as nonprofit organizations pursuant to  
39 section 501(c)(3) of the internal revenue code as described in  
40 subsection (1)(c) of this section.

1           NEW SECTION.    **Sec. 308.**    PARTICIPATION IN THE FEASIBILITY STUDY.

2    In order to facilitate the potential for shared drop-off locations  
3    with other depots or return pathways provided by producer  
4    responsibility organizations, the distributor responsibility  
5    organization must participate in the feasibility study described in  
6    section 505 of this act. The distributor responsibility  
7    organization's participation in the feasibility study is limited to  
8    helping identify potential partnerships and shared drop-off locations  
9    between the distributor responsibility organization and producer  
10   responsibility organizations, and the distributor responsibility  
11   organization retains sole discretion to determine how to achieve the  
12   required number and geographic distribution of drop-off locations  
13   required of the distributor responsibility organization.

14           NEW SECTION.    **Sec. 309.**    ANNUAL REPORTING ON ACTIVITIES. (1)

15   Beginning July 1, 2028, and each July 1st thereafter, a distributor  
16   responsibility organization must submit an annual report to the  
17   department for the preceding calendar year of plan implementation.

18           (2) Each annual report must include the following information:

19           (a) A list of its member distributors and their brands of  
20   beverages in qualifying beverage containers;

21           (b) The number of qualifying beverage containers supplied into  
22   the state in aggregate, and by material categories of glass, metal,  
23   and plastic, by members of the distributor responsibility  
24   organization;

25           (c) The number of beverages in reusable containers that were  
26   sold;

27           (d) The number of qualifying beverage containers redeemed in  
28   aggregate, and by material categories of glass, metal, and plastic,  
29   through the deposit return system operated by the distributor  
30   responsibility organization;

31           (e) A list and explanation of the beverages in qualifying  
32   beverage containers supplied or sold in Washington by members of the  
33   distributor responsibility organization and brands of qualifying  
34   beverage containers participating in the deposit return system;

35           (f) The final destinations of recycled material managed by the  
36   program;

37           (g) The total budget for the distributor responsibility  
38   organization;

1 (h) Total value of unclaimed refunds used by the distributor  
2 responsibility organization to support operations; and

3 (i) The annual redemption rate and reuse sales rate.

4 (3) The reporting described in subsection (2)(b) of this section  
5 does not include containers that are sold to dealers or other  
6 entities outside of the state.

7 (4) A distributor responsibility organization may rely on member  
8 reporting for reporting requirements in this chapter.

9 (5) Included in its annual report, a distributor responsibility  
10 organization shall provide verification from a third-party financial  
11 auditing firm confirming the total budget for the distributor  
12 responsibility organization, the total value of unclaimed refunds,  
13 and a verification that funds represented by unclaimed refunds were  
14 not distributed to members of the cooperative as a dividend.

15 NEW SECTION. **Sec. 310.** CONSUMER CONVENIENCE ADVISORY COUNCIL.

16 (1) In coordination with the department, the distributor  
17 responsibility organization shall establish the consumer convenience  
18 advisory council within six months following initial registration of  
19 a distributor responsibility organization.

20 (2) The consumer convenience advisory council must include the  
21 following members:

22 (a) A representative of the distributor responsibility  
23 organization charged with securing and making available drop-off  
24 locations;

25 (b) Two representatives of a grocery association, or individual  
26 grocers with more than 10 retail locations over 5,000 square feet in  
27 size in the state;

28 (c) Two representatives of a city association, or individual city  
29 government, with one representing a city with a population over  
30 200,000 people;

31 (d) Two representatives of a county association, or individual  
32 county government, with one representing an urban county and one  
33 representing a rural county; and

34 (e) An environmental organization.

35 (3) Any additional representatives deemed by the distributor  
36 responsibility organization to provide important insight into  
37 assisting with the deployment of drop-off locations may be approved  
38 by the department.



1 (4) The consumer convenience advisory council shall work with the  
2 distributor responsibility organization to identify potential bag  
3 drop-off locations and achieve the consumer convenience required in  
4 section 307 of this act.

5 (5) The consumer convenience advisory council shall meet at least  
6 twice per year and more frequently at the request of the distributor  
7 responsibility organization.

8 NEW SECTION. **Sec. 311.** CONSUMER CONVENIENCE ASSESSMENT. (1) In  
9 the fifth full year in which a distributor responsibility  
10 organization operates a deposit return system in the state, the  
11 department, in partnership with the distributor responsibility  
12 organization, and in consultation with the consumer convenience  
13 advisory council established in section 310 of this act, shall  
14 conduct an assessment of consumer convenience, identifying any  
15 barriers to achieving the number of drop-off locations required by  
16 the consumer convenience requirements in section 306 of this act and  
17 any other potential barriers to consumer convenience or  
18 participation.

19 (2) If the required number of drop-off locations has not been  
20 achieved, or if the system's redemption rate is significantly lower  
21 than the redemption rate performance targets described in section 307  
22 of this act, the department shall make policy recommendations  
23 regarding ways to increase consumer convenience and enhance  
24 performance.

25 NEW SECTION. **Sec. 312.** INDEPENDENT REFUND PROGRAM. (1) A  
26 distributor that is also a manufacturer may submit a plan to the  
27 department to operate an independent refund program for beverages in  
28 qualifying beverage containers produced by the manufacturer, and the  
29 department may approve the plan if it meets all of the following  
30 criteria:

31 (a) The manufacturer sells or distributes no more than 10,000  
32 beverages in qualifying beverage containers per year in the state;

33 (b) The beverages are packaged in reusable qualifying beverage  
34 containers;

35 (c) The manufacturer offers a refund value for the containers  
36 that is greater than the refund value for containers redeemed by the  
37 distributor responsibility organization;

1 (d) The department determines that the plan includes return  
2 pathways and options that are convenient for consumers returning  
3 their brand of beverage containers covered by the plan for a refund;  
4 and

5 (e) The plan includes annual reporting requirements that, in the  
6 department's determination, are sufficient to measure the performance  
7 of the independent refund program.

8 (2) If the department approves an independent refund program plan  
9 as described in subsection (1) of this section, the distributor  
10 manufacturer operating a plan approved by the department is not  
11 subject to the requirements of distributors independently complying  
12 with the requirements in this chapter, as described in section 304(1)  
13 of this act and elsewhere in this chapter.

14 (3) Reusable containers sold through a program approved through  
15 this section count towards the reusable container performance  
16 requirements described in section 306 of this act.

17 (4) The department may revoke plan approval for a manufacturer  
18 distributor operating an independent refund program at any time if,  
19 in its sole discretion, the department determines that the program is  
20 not providing sufficient performance or not meeting the consumer  
21 convenience requirements submitted with its plan.

22 NEW SECTION. **Sec. 313.** EDUCATION AND OUTREACH ACTIVITIES. (1)  
23 Each plan implemented by a distributor responsibility organization  
24 under this chapter must include education and outreach activities  
25 that effectively reach diverse residents, are accessible, are clear,  
26 and support the achievement of the performance requirements described  
27 in section 306 of this act. To implement the education and outreach  
28 activities described in the plan, a distributor responsibility  
29 organization must, at minimum:

30 (a) Develop and provide outreach and educational materials,  
31 resources, and campaigns about the program to be used by the  
32 distributor responsibility organization, dealers, governmental  
33 entities, and nonprofit organizations. The materials, resources, and  
34 campaigns developed under this section to encourage participation in  
35 the deposit return system must, at minimum:

36 (i) Provide information to residents on recycling and reuse  
37 practices related to the deposit return system, including where and  
38 how to redeem qualifying beverage containers, and what happens to  
39 containers once they are returned; and

1 (ii) Education and engagement with users of the deposit return  
2 system to reduce the rate of inbound contamination or unwanted  
3 materials;

4 (b) Use media channels that may include, but are not limited to,  
5 print publications, radio, television, the internet, and online  
6 streaming services to promote the program statewide;

7 (c) Use consistent and easy to understand messaging and education  
8 statewide, with the aim of reducing resident confusion regarding the  
9 recyclability, reuse, compostability, and end-of-life management  
10 options available for different qualifying beverage containers;

11 (d) Be conceptually, linguistically, and culturally accurate for  
12 the communities served and tailored to effectively reach the state's  
13 diverse populations, including through meaningful consultation with  
14 overburdened communities and vulnerable populations;

15 (e) Establish a process for answering customer questions and  
16 resolving customer concerns;

17 (f) Provide a map of each area where drop-off and other  
18 collection services for qualifying beverage containers are available  
19 on its website; and

20 (g) Evaluate the effectiveness of education and outreach efforts  
21 for the purposes of making progress toward performance requirements  
22 established in this chapter.

23 (2) A distributor responsibility organization may coordinate with  
24 government entities that choose to participate in carrying out  
25 resident education and outreach regarding the deposit return system.

26 NEW SECTION. **Sec. 314.** PAYMENT OF REFUND VALUE FOR COLLECTION  
27 USING OTHER INFRASTRUCTURE. (1) The distributor responsibility  
28 organization must accept, and must pay the full refund value for, any  
29 qualifying beverage containers returned to the distributor  
30 responsibility organization by material recovery facilities,  
31 governmental entities, and other processing facilities if all of the  
32 following criteria are met:

33 (a) The qualifying beverage containers have been collected and  
34 separated in accordance with standards established by the distributor  
35 responsibility organization and are delivered directly to a  
36 distributor responsibility organization processing facility;

37 (b) In order to avoid redeeming containers not purchased in the  
38 state, the material recovery facilities, governmental entities, and  
39 other processing facilities may only handle or process materials from

1 this state, or provide third-party auditing and verification  
2 sufficient to confirm that the containers being returned were  
3 recovered only from material originating in the state; and

4 (c) The containers are separated by material type, not  
5 contaminated with other materials, and are not crushed, broken, or  
6 otherwise substantially manipulated into a shape other than the shape  
7 of the container at the time of purchase.

8 (2) Nothing in this chapter requires a person, including a  
9 business, to use the infrastructure provided by a deposit return  
10 system created under this chapter or precludes the disposal for  
11 recycling of qualifying beverage containers via curbside recycling  
12 collection systems.

13 NEW SECTION. **Sec. 315.** CIVIL PENALTIES. (1) Upon notice of a  
14 significant violation of the deposit return system plan or  
15 performance requirements of this chapter, and after a cure period of  
16 at least 60 days, the department may assess a civil penalty of at  
17 least \$200 per violation per day, but no more than \$500 per violation  
18 per day.

19 (2) The department shall make its best efforts to work with the  
20 distributor responsibility organization to remedy issues without the  
21 use of penalties and make reasonable accommodations when the nature  
22 of the violation is significantly outside of the distributor  
23 responsibility organization's control.

24 (3) Notwithstanding the performance penalty described in section  
25 307 of this act, a civil penalty may not be assessed based on the  
26 redemption rate or reuse sales rate performance requirements.

27 NEW SECTION. **Sec. 316.** RECYCLING REVENUE AUGMENTATION FUND. (1)  
28 The department of commerce shall administer the recycling revenue  
29 augmentation fund, created in section 317 of this act, which shall,  
30 for the first five years in which a distributor responsibility  
31 organization operates a deposit return system in the state:

32 (a) Collect funds from a distributor responsibility organization  
33 as described in section 307(11) of this act; and

34 (b) Beginning January 1st of the year following the year in which  
35 a distributor responsibility organization first operates a deposit  
36 return system in the state, and each January 1st for the following  
37 four years, accept requests annually from local governments, or  
38 operators of curbside or drop-off recycling programs in the state, or

1 both, to receive funds from the recycling revenue augmentation fund  
2 to offset revenue losses from the previous year from scrap material  
3 being diverted to the deposit return system. These requests must  
4 include third-party audited financial data demonstrating any revenue  
5 losses from the value of scrap materials diverted from curbside or  
6 drop-off recycling programs by a deposit return system, less any  
7 decreased operating costs from not collecting, hauling, processing,  
8 or landfilling the material, less any new revenue provided through  
9 other provisions within this chapter that offsets revenue losses, and  
10 less any material weight losses represented by the operator serving  
11 fewer accounts. For local government and publicly operated curbside  
12 or drop-off recycling programs, the government entity's annual audit  
13 may satisfy the audited data requirement of this section if the  
14 department of commerce determines that it is sufficient to verify the  
15 claim. Each request must include the average total tons of glass,  
16 plastic, and metal for that applicant for the three years preceding  
17 the operation of a deposit return system in the state, compared to  
18 the total tons of glass, plastic, and metal material for the year for  
19 which funds are requested.

20 (2) The department of commerce shall:

21 (a) Evaluate all requests annually and determine the validity of  
22 the data submitted by each requester;

23 (b) Reject requests that do not include sufficient or  
24 sufficiently accurate data;

25 (c) Distribute funds to operators of curbside and drop-off  
26 recycling systems proportionally, based on valid requests and  
27 available revenue in the fund; and

28 (d) If the total amount of requests deemed valid by the  
29 department of commerce is less than the amount of funds available  
30 each year, less the department of commerce's program funding  
31 described in subsection (3) of this section, the department of  
32 commerce shall remit the remaining balance back to the distributor  
33 responsibility organization, with the exception of funds generated by  
34 section 305(7)(c) of this act, which shall remain in the recycling  
35 revenue augmentation fund to support future requests. If funds  
36 generated by section 305(7)(c) of this act remain in the recycling  
37 revenue augmentation fund upon the conclusion of the program, they  
38 shall be deposited into the deposit return organization program  
39 account created in section 318 of this act and shall be used to  
40 support the department of commerce's requirements in this chapter.

1 (3) The department of commerce may use funds provided for in  
2 section 307(11) of this act for each of the five years the program  
3 operates to cover costs associated with implementing and  
4 administering the recycling revenue augmentation fund.

5 NEW SECTION. **Sec. 317.** ACCOUNT FOR RECYCLING REVENUE  
6 AUGMENTATION FUND. The recycling revenue augmentation fund is created  
7 in the custody of the state treasurer. All receipts received by the  
8 department of commerce under section 316 of this act must be  
9 deposited in the account. Expenditures from the account may be used  
10 by the department of commerce only for implementing and administering  
11 the requirements of section 316 of this act. Only the director of the  
12 department of commerce or the director's designee may authorize  
13 expenditures from the account. The account is subject to the  
14 allotment procedures under chapter 43.88 RCW, but an appropriation is  
15 not required for expenditures.

16 NEW SECTION. **Sec. 318.** DEPOSIT RETURN ORGANIZATION PROGRAM  
17 ACCOUNT. The deposit return organization program account is created  
18 in the custody of the state treasurer. All receipts received by the  
19 department under this chapter must be deposited in the account.  
20 Expenditures from the account may be used by the department only for  
21 implementing, administering, and enforcing the requirements of this  
22 chapter. Only the director of the department or the director's  
23 designee may authorize expenditures from the account. The account is  
24 subject to the allotment procedures under chapter 43.88 RCW, but an  
25 appropriation is not required for expenditures.

26 NEW SECTION. **Sec. 319.** CONTINGENCY. If a distributor  
27 responsibility organization ceases to exist and operate a deposit  
28 return system in Washington, other than for temporary disruptions due  
29 to unforeseen circumstances, as determined by the department,  
30 qualifying beverage containers become covered products under chapter  
31 70A.--- RCW (the new chapter created in section 601 of this act).

32 **Part Four**

33 **Amendments to Solid Waste Management Laws**

34 **Sec. 401.** RCW 70A.205.005 and 2002 c 299 s 3 are each amended to  
35 read as follows:

1 The legislature finds:

2 (1) Continuing technological changes in methods of manufacture,  
3 packaging, and marketing of consumer products, together with the  
4 economic and population growth of this state, the rising affluence of  
5 its citizens, and its expanding industrial activity have created new  
6 and ever-mounting problems involving disposal of garbage, refuse, and  
7 solid waste materials resulting from domestic, agricultural, and  
8 industrial activities.

9 (2) Traditional methods of disposing of solid wastes in this  
10 state are no longer adequate to meet the ever-increasing problem.  
11 Improper methods and practices of handling and disposal of solid  
12 wastes pollute our land, air and water resources, blight our  
13 countryside, adversely affect land values, and damage the overall  
14 quality of our environment.

15 (3) Considerations of natural resource limitations, energy  
16 shortages, economics and the environment make necessary the  
17 development and implementation of solid waste recovery and/or  
18 recycling plans and programs.

19 (4) Waste reduction must become a fundamental strategy of solid  
20 waste management. It is therefore necessary to change manufacturing  
21 and purchasing practices and waste generation behaviors to reduce the  
22 amount of waste that becomes a governmental responsibility.

23 (5) Source separation of waste must become a fundamental strategy  
24 of solid waste management. Collection and handling strategies should  
25 have, as an ultimate goal, the source separation of all materials  
26 with resource value or environmental hazard.

27 (6)(a) It should be the goal of every person and business to  
28 minimize their production of wastes and to separate recyclable or  
29 hazardous materials from mixed waste.

30 (b) It is the responsibility of state, county, and city  
31 governments to provide for a waste management infrastructure to fully  
32 implement waste reduction and source separation strategies and to  
33 process and dispose of remaining wastes in a manner that is  
34 environmentally safe and economically sound. It is further the  
35 responsibility of state, county, and city governments to monitor the  
36 cost-effectiveness and environmental safety of combusting separated  
37 waste, processing mixed municipal solid waste, and recycling  
38 programs.

39 (c) It is the responsibility of county and city governments to  
40 assume primary responsibility for solid waste management and to

1 develop and implement aggressive and effective waste reduction and  
2 source separation strategies.

3 (d) It is the responsibility of state government to ensure that  
4 local governments are providing adequate source reduction and  
5 separation opportunities and incentives to all, including persons in  
6 both rural and urban areas, and nonresidential waste generators such  
7 as commercial, industrial, and institutional entities, recognizing  
8 the need to provide flexibility to accommodate differing population  
9 densities, distances to and availability of recycling markets, and  
10 collection and disposal costs in each community; and to provide  
11 county and city governments with adequate technical resources to  
12 accomplish this responsibility.

13 (e) It is the responsibility of producers to help provide for the  
14 responsible management of their products.

15 (7) Environmental and economic considerations in solving the  
16 state's solid waste management problems requires strong consideration  
17 by local governments of regional solutions and intergovernmental  
18 cooperation.

19 (8) The following priorities for the collection, handling, and  
20 management of solid waste are necessary and should be followed in  
21 descending order as applicable:

22 (a) Waste reduction;

23 (b) Recycling, with source separation of recyclable materials as  
24 the preferred method;

25 (c) Energy recovery, incineration, or landfill of separated  
26 waste;

27 (d) Energy recovery, incineration, or landfill of mixed municipal  
28 solid wastes.

29 (9) It is the state's goal to achieve a (~~fifty~~) 50 percent  
30 recycling rate by 2007.

31 (10) It is the state's goal that programs be established to  
32 eliminate residential or commercial yard debris in landfills by 2012  
33 in those areas where alternatives to disposal are readily available  
34 and effective.

35 (11) Steps should be taken to make recycling at least as  
36 affordable and convenient to the ratepayer as mixed waste disposal.

37 (12) It is necessary to compile and maintain adequate data on the  
38 types and quantities of solid waste that are being generated and to  
39 monitor how the various types of solid waste are being managed.



1 (13) Vehicle batteries should be recycled and the disposal of  
2 vehicle batteries into landfills or incinerators should be  
3 discontinued.

4 (14) Excessive and nonrecyclable packaging of products should be  
5 avoided.

6 (15) Comprehensive education should be conducted throughout the  
7 state so that people are informed of the need to reduce, source  
8 separate, and recycle solid waste.

9 (16) All governmental entities in the state should set an example  
10 by implementing aggressive waste reduction and recycling programs at  
11 their workplaces and by purchasing products that are made from  
12 recycled materials and are recyclable.

13 (17) To ensure the safe and efficient operations of solid waste  
14 disposal facilities, it is necessary for operators and regulators of  
15 landfills and incinerators to receive training and certification.

16 (18) It is necessary to provide adequate funding to all levels of  
17 government so that successful waste reduction and recycling programs  
18 can be implemented.

19 (19) The development of stable and expanding markets for  
20 recyclable materials is critical to the long-term success of the  
21 state's recycling goals. Market development must be encouraged on a  
22 state, regional, and national basis to maximize its effectiveness.  
23 The state shall assume primary responsibility for the development of  
24 a multifaceted market development program to carry out the purposes  
25 of chapter 431, Laws of 1989.

26 (20) There is an imperative need to anticipate, plan for, and  
27 accomplish effective storage, control, recovery, and recycling of  
28 discarded tires and other problem wastes with the subsequent  
29 conservation of resources and energy.

30 **Sec. 402.** RCW 70A.205.010 and 2005 c 394 s 2 are each amended to  
31 read as follows:

32 The purpose of this chapter is to establish a comprehensive  
33 statewide program for solid waste handling, and solid waste recovery  
34 and/or recycling which will prevent land, air, and water pollution  
35 and conserve the natural, economic, and energy resources of this  
36 state. To this end it is the purpose of this chapter:

37 (1) To assign primary responsibility for adequate solid waste  
38 handling to local government, reserving to the state, however, those  
39 functions necessary to assure effective programs throughout the

1 state, and sharing with producers' responsibility for the management  
2 of their covered products under chapter 70A.--- RCW (the new chapter  
3 created in section 601 of this act);

4 (2) To provide for adequate planning for solid waste handling by  
5 local government;

6 (3) To provide for the adoption and enforcement of basic minimum  
7 performance standards for solid waste handling, including that all  
8 sites where recyclable materials are generated and transported from  
9 shall provide a separate container for solid waste;

10 (4) To encourage the development and operation of waste recycling  
11 facilities needed to accomplish the management priority of waste  
12 recycling, to promote consistency in the requirements for such  
13 facilities throughout the state, and to ensure that recyclable  
14 materials diverted from the waste stream for recycling are routed to  
15 facilities in which recycling occurs;

16 (5) To provide technical and financial assistance to local  
17 governments in the planning, development, and conduct of solid waste  
18 handling programs;

19 (6) To encourage storage, proper disposal, and recycling of  
20 discarded vehicle tires and to stimulate private recycling programs  
21 throughout the state; and

22 (7) To encourage the development and operation of waste recycling  
23 facilities and activities needed to accomplish the management  
24 priority of waste recycling and to promote consistency in the  
25 permitting requirements for such facilities and activities throughout  
26 the state.

27 It is the intent of the legislature that local governments be  
28 encouraged to use the expertise of private industry and to contract  
29 with private industry to the fullest extent possible to carry out  
30 solid waste recovery and/or recycling programs.

31 **Sec. 403.** RCW 70A.205.045 and 2020 c 20 s 1163 are each amended  
32 to read as follows:

33 Each county and city comprehensive solid waste management plan  
34 shall include the following:

35 (1) A detailed inventory and description of all existing solid  
36 waste handling facilities including an inventory of any deficiencies  
37 in meeting current solid waste handling needs.

38 (2) The estimated long-range needs for solid waste handling  
39 facilities projected twenty years into the future.

1 (3) A program for the orderly development of solid waste handling  
2 facilities in a manner consistent with the plans for the entire  
3 county which shall:

4 (a) Meet the minimum functional standards for solid waste  
5 handling adopted by the department and all laws and regulations  
6 relating to air and water pollution, fire prevention, flood control,  
7 and protection of public health;

8 (b) Take into account the comprehensive land use plan of each  
9 jurisdiction;

10 (c) Contain a six year construction and capital acquisition  
11 program for solid waste handling facilities; and

12 (d) Contain a plan for financing both capital costs and  
13 operational expenditures of the proposed solid waste management  
14 system.

15 (4) A program for surveillance and control.

16 (5) A current inventory and description of solid waste collection  
17 needs and operations within each respective jurisdiction which shall  
18 include:

19 (a) Any franchise for solid waste collection granted by the  
20 utilities and transportation commission in the respective  
21 jurisdictions including the name of the holder of the franchise and  
22 the address of his or her place of business and the area covered by  
23 the franchise;

24 (b) Any city solid waste operation within the county and the  
25 boundaries of such operation;

26 (c) The population density of each area serviced by a city  
27 operation or by a franchised operation within the respective  
28 jurisdictions;

29 (d) The projected solid waste collection needs for the respective  
30 jurisdictions for the next six years.

31 (6) A comprehensive waste reduction and recycling element that,  
32 in accordance with the priorities established in RCW 70A.205.005,  
33 provides programs that (a) reduce the amount of waste generated, (b)  
34 provide incentives and mechanisms for source separation, and (c)  
35 establish recycling opportunities for the source separated waste.

36 (7) The waste reduction and recycling element shall include the  
37 following:

38 (a) Waste reduction strategies, which may include strategies to  
39 reduce wasted food and food waste that are designed to achieve the

1 goals established in RCW 70A.205.715(1) and that are consistent with  
2 the plan developed in RCW 70A.205.715(3);

3 (b) Source separation strategies, including:

4 (i) Programs for the collection of source separated materials  
5 from residences (~~in urban and rural areas. In urban areas, these~~),  
6 including programs that are the responsibility of producer  
7 responsibility organizations in chapter 70A.--- RCW (the new chapter  
8 created in section 601 of this act) and distributor responsibility  
9 organizations in chapter 70A.--- RCW (the new chapter created in  
10 section 603 of this act). These programs shall include collection of  
11 source separated recyclable materials from single and multiple-family  
12 residences, unless the county has adopted an ordinance establishing  
13 that covered products designated for collection by a producer  
14 responsibility organization plan must be collected exclusively  
15 through alternate collection in areas regulated by the utilities and  
16 transportation commission under the provisions of chapter 81.77 RCW  
17 or the department approves an alternative program, according to the  
18 criteria in the planning guidelines. Such criteria shall include:  
19 Anticipated recovery rates and levels of public participation,  
20 availability of environmentally sound disposal capacity, access to  
21 markets for recyclable materials, unreasonable cost impacts on the  
22 ratepayer over the six-year planning period, utilization of  
23 environmentally sound waste reduction and recycling technologies, and  
24 other factors as appropriate. ((In rural areas, these)) These  
25 programs shall also include but not be limited to drop-off boxes,  
26 buy-back centers, or a combination of both, at each solid waste  
27 transfer, processing, or disposal site, or at locations convenient to  
28 the residents of the county. The drop-off boxes and buy-back centers  
29 may be owned or operated by public, nonprofit, or private persons.  
30 Comprehensive solid waste management plans that are newly developed,  
31 updated, or amended after July 1, 2026, may incorporate by reference  
32 the plans of producer responsibility organizations established in the  
33 jurisdiction under chapter 70A.--- RCW (the new chapter created in  
34 section 601 of this act) to fulfill this requirement in whole or in  
35 part;

36 (ii) Programs to monitor the collection of source separated waste  
37 at nonresidential sites where there is sufficient density to sustain  
38 a program;

39 (iii) Programs to collect yard waste and food waste, if the  
40 county or city submitting the plan finds that there are adequate

1 markets or capacity for composted yard waste and food waste within or  
2 near the service area to consume the majority of the material  
3 collected; and

4 (iv) Programs to educate and promote the concepts of waste  
5 reduction and recycling;

6 (c) Recycling strategies, including a description of markets for  
7 recyclables, a review of waste generation trends, a description of  
8 waste composition, a discussion and description of existing programs  
9 and any additional programs needed to assist public and private  
10 sector recycling, and an implementation schedule for the designation  
11 of specific materials to be collected for recycling, and for the  
12 provision of recycling collection services;

13 (d) Other information the county or city submitting the plan  
14 determines is necessary.

15 (8) An assessment of the plan's impact on the costs of solid  
16 waste collection. The assessment shall be prepared in conformance  
17 with guidelines established by the utilities and transportation  
18 commission. The commission shall cooperate with the Washington state  
19 association of counties and the association of Washington cities in  
20 establishing such guidelines.

21 (9) A review of potential areas that meet the criteria as  
22 outlined in RCW 70A.205.110.

23 (10) A contamination reduction and outreach plan. The  
24 contamination reduction and outreach plan must address reducing  
25 contamination in recycling. Except for counties with a population of  
26 twenty-five thousand or fewer, by July 1, 2021, a contamination  
27 reduction and outreach plan must be included in each solid waste  
28 management plan by a plan amendment or included when revising or  
29 updating a solid waste management plan developed under this chapter.  
30 Jurisdictions may adopt the state's contamination reduction and  
31 outreach plan as developed under RCW 70A.205.070 or participate in a  
32 producer responsibility organization's plan in lieu of creating their  
33 own plan. In comprehensive solid waste management plans that are  
34 newly developed, updated, or amended after July 1, 2027, a  
35 jurisdiction must reference the plans of producer responsibility  
36 organizations established in the jurisdiction under chapter 70A.---  
37 RCW (the new chapter created in section 601 of this act) and any  
38 plans of distributor responsibility organizations under chapter  
39 70A.--- RCW (the new chapter created in section 603 of this act). A

1 recycling contamination reduction and outreach plan must include the  
2 following:

3 (a) A list of actions for reducing contamination in recycling  
4 programs for single-family and multiple-family residences, commercial  
5 locations, and drop boxes depending on the jurisdictions system  
6 components;

7 (b) A list of key contaminants identified by the jurisdiction or  
8 identified by the department;

9 (c) A discussion of problem contaminants and the contaminants'  
10 impact on the collection system;

11 (d) An analysis of the costs and other impacts associated with  
12 contaminants to the recycling system; and

13 (e) An implementation schedule and details of how outreach is to  
14 be conducted. Contamination reduction education methods may include  
15 sharing community-wide messaging through newsletters, articles,  
16 mailers, social media, websites, or community events, informing  
17 recycling drop box customers about contamination, and improving  
18 signage.

19 **Sec. 404.** RCW 81.77.030 and 2020 c 20 s 1467 are each amended to  
20 read as follows:

21 (1) The commission shall supervise and regulate every solid waste  
22 collection company in this state,

23 ~~((1))~~ (a) By fixing and altering its rates, charges,  
24 classifications, rules and regulations;

25 ~~((2))~~ (b) By regulating the accounts, service, and safety of  
26 operations;

27 ~~((3))~~ (c) By requiring the filing of annual and other reports  
28 and data;

29 ~~((4))~~ (d) By supervising and regulating such persons or  
30 companies in all other matters affecting the relationship between  
31 them and the public which they serve;

32 ~~((5))~~ (e) By requiring compliance with local solid waste  
33 management plans and related implementation ordinances;

34 ~~((6))~~ (f) By reviewing producer responsibility organization  
35 reimbursement of regulated service providers consistent with the  
36 requirements of chapter 70A.--- RCW (the new chapter created in  
37 section 601 of this act);

38 (g) By requiring certificate holders under this chapter ~~((81.77~~  
39 ~~RCW))~~ to use rate structures and billing systems consistent with the

1 solid waste management priorities set forth under RCW 70A.205.005 and  
2 the minimum levels of solid waste collection and recycling services  
3 pursuant to local comprehensive solid waste management plans and with  
4 implementation of curbside recycling collection services designated  
5 by a producer responsibility organization in an approved plan to meet  
6 the requirements of chapter 70A.--- RCW (the new chapter created in  
7 section 601 of this act). The commission may order consolidated  
8 billing and provide for reasonable and necessary expenses to be paid  
9 to the administering company if more than one certificate is granted  
10 in an area.

11 (2) The commission, on complaint made on its own motion or by an  
12 aggrieved party, at any time, after providing the holder of any  
13 certificate with notice and an opportunity for a hearing at which it  
14 shall be proven that the holder has willfully violated or refused to  
15 observe any of the commission's orders, rules, or regulations, or has  
16 failed to operate as a solid waste collection company for a period of  
17 at least one year preceding the filing of the complaint, may suspend,  
18 revoke, alter, or amend any certificate issued under the provisions  
19 of this chapter.

20 **Sec. 405.** RCW 81.77.040 and 2020 c 20 s 1468 are each amended to  
21 read as follows:

22 A solid waste collection company shall not operate for the  
23 hauling of solid waste for compensation without first having obtained  
24 from the commission a certificate declaring that public convenience  
25 and necessity require such operation. Operating for the hauling of  
26 solid waste for compensation includes advertising, soliciting,  
27 offering, or entering into an agreement to provide that service. To  
28 operate a solid waste collection company in the unincorporated areas  
29 of a county, the company must comply with the solid waste management  
30 plan prepared under chapter 70A.205 RCW in the company's franchise  
31 area and, if applicable, the service standards for curbside recycling  
32 collection services established in an approved producer  
33 responsibility organization plan to meet the requirements of chapter  
34 70A.--- RCW (the new chapter created in section 601 of this act).

35 Issuance of the certificate of necessity must be determined on,  
36 but not limited to, the following factors: The present service and  
37 the cost thereof for the contemplated area to be served; an estimate  
38 of the cost of the facilities to be utilized in the plant for solid  
39 waste collection and disposal, set out in an affidavit or

1 declaration; a statement of the assets on hand of the person, firm,  
2 association, or corporation that will be expended on the purported  
3 plant for solid waste collection and disposal, set out in an  
4 affidavit or declaration; a statement of prior experience, if any, in  
5 such field by the petitioner, set out in an affidavit or declaration;  
6 and sentiment in the community contemplated to be served as to the  
7 necessity for such a service.

8 When an applicant requests a certificate to operate in a  
9 territory already served by a certificate holder under this chapter,  
10 the commission may, after notice and an opportunity for a hearing,  
11 issue the certificate only if the existing solid waste collection  
12 company or companies serving the territory will not provide service  
13 to the satisfaction of the commission or if the existing solid waste  
14 collection company does not object.

15 In all other cases, the commission may, with or without hearing,  
16 issue certificates, or for good cause shown refuse to issue them, or  
17 issue them for the partial exercise only of the privilege sought, and  
18 may attach to the exercise of the rights granted such terms and  
19 conditions as, in its judgment, the public convenience and necessity  
20 may require.

21 Any right, privilege, certificate held, owned, or obtained by a  
22 solid waste collection company may be sold, assigned, leased,  
23 transferred, or inherited as other property, only if authorized by  
24 the commission.

25 For purposes of issuing certificates under this chapter, the  
26 commission may adopt categories of solid wastes as follows: Garbage,  
27 refuse, recyclable materials, and demolition debris. A certificate  
28 may be issued for one or more categories of solid waste. Certificates  
29 issued on or before July 23, 1989, shall not be expanded or  
30 restricted by operation of this chapter.

31 **Sec. 406.** RCW 81.77.160 and 1997 c 434 s 1 are each amended to  
32 read as follows:

33 (1) The commission, in fixing and altering collection rates  
34 charged by every solid waste collection company under this section,  
35 shall include in the base for the collection rates:

36 (a) All charges for the disposal of solid waste at the facility  
37 or facilities designated by a local jurisdiction under a local  
38 comprehensive solid waste management plan or ordinance; and



1 (b) All known and measurable costs related to implementation of  
2 the approved county or city comprehensive solid waste management plan  
3 or to the implementation of curbside recycling collection services  
4 performed by a solid waste collection company and designated by a  
5 producer responsibility organization in an approved plan to meet the  
6 requirements of chapter 70A.--- RCW (the new chapter created in  
7 section 601 of this act).

8 (2) If a solid waste collection company files a tariff to recover  
9 the costs specified under this section, and the commission suspends  
10 the tariff, the portion of the tariff covering costs specified in  
11 this section shall be placed in effect by the commission at the  
12 request of the company on an interim basis as of the originally filed  
13 effective date, subject to refund, pending the commission's final  
14 order. The commission may adopt rules to implement this section.

15 (3) This section applies to a solid waste collection company that  
16 has an affiliated interest under chapter 81.16 RCW with a facility,  
17 if the total cost of disposal, including waste transfer, transport,  
18 and disposal charges, at the facility is equal to or lower than any  
19 other reasonable and currently available option.

20 **Sec. 407.** RCW 81.77.185 and 2010 c 154 s 3 are each amended to  
21 read as follows:

22 (1) The commission shall allow solid waste collection companies  
23 collecting recyclable materials other than covered products collected  
24 under an approved plan in chapter 70A.--- RCW (the new chapter  
25 created in section 601 of this act) and qualifying beverage  
26 containers under an approved plan in chapter 70A.--- RCW (the new  
27 chapter created in section 603 of this act) to retain up to ((fifty))  
28 50 percent of the revenue paid to the companies for the material if  
29 the companies submit a plan to the commission that is certified by  
30 the appropriate local government authority as being consistent with  
31 the local government solid waste plan and that demonstrates how the  
32 revenues will be used to increase recycling. The remaining revenue  
33 shall be passed to residential customers.

34 (2) By December 2, 2005, the commission shall provide a report to  
35 the legislature that evaluates:

36 (a) The effectiveness of revenue sharing as an incentive to  
37 increase recycling in the state; and

38 (b) The effect of revenue sharing on costs to customers.

1        NEW SECTION.    **Sec. 408.**    APPLICATION OF CHAPTER—COLLECTION AND  
2 TRANSPORTATION OF RECYCLABLE MATERIALS BY RECYCLING COMPANIES OR  
3 NONPROFIT ENTITIES—REUSE OR RECLAMATION. (1) Nothing in this chapter  
4 or chapter 70A.--- (the new chapter created in section 602 of this  
5 act) or 70A.--- RCW (the new chapter created in section 603 of this  
6 act) prevents a recycling company or nonprofit entity from collecting  
7 and transporting recyclable materials from a buy-back center, drop  
8 box, or from a commercial or industrial generator of recyclable  
9 materials that does not include materials generated from single and  
10 multiple-family residences upon agreement with a solid waste  
11 collection company.

12        (2) Nothing in this chapter or chapter 70A.--- (the new chapter  
13 created in section 602 of this act) or 70A.--- RCW (the new chapter  
14 created in section 603 of this act) may be construed as prohibiting a  
15 commercial or industrial generator of commercial recyclable materials  
16 that does not contain materials generated from single or multiple-  
17 family residences from selling, conveying, or arranging for  
18 transportation of the material to a recycler for reuse or  
19 reclamation.

20        NEW SECTION.    **Sec. 409.**    A new section is added to chapter  
21 70A.222 RCW to read as follows:

22        The department of ecology may direct producers to register and  
23 submit any required data, annual reports, fees, and annual payments,  
24 and any additional information or documentation to the clearinghouse  
25 established in section 125 of this act in lieu of submission to the  
26 department.

27        NEW SECTION.    **Sec. 410.**    A new section is added to chapter  
28 70A.350 RCW to read as follows:

29        The department may direct producers to register and submit any  
30 required data, annual reports, fees, and annual payments, and any  
31 additional information or documentation to the clearinghouse  
32 established in section 125 of this act in lieu of submission to the  
33 department.

34        NEW SECTION.    **Sec. 411.**    A new section is added to chapter  
35 70A.245 RCW to read as follows:

36        The department may direct producers to register and submit any  
37 required data, annual reports, fees, and annual payments, and any

1 additional information or documentation to the clearinghouse  
2 established in section 125 of this act in lieu of submission to the  
3 department.

4 NEW SECTION. **Sec. 412.** A new section is added to chapter  
5 70A.230 RCW to read as follows:

6 The department may direct producers to register and submit any  
7 required data, annual reports, fees, and annual payments, and any  
8 additional information or documentation to the clearinghouse  
9 established in section 125 of this act in lieu of submission to the  
10 department.

11 NEW SECTION. **Sec. 413.** A new section is added to chapter  
12 70A.340 RCW to read as follows:

13 The department may direct producers to register and submit any  
14 required data, annual reports, fees, and annual payments, and any  
15 additional information or documentation to the clearinghouse  
16 established in section 125 of this act in lieu of submission to the  
17 department.

18 NEW SECTION. **Sec. 414.** A new section is added to chapter  
19 70A.455 RCW to read as follows:

20 The department may direct producers to register and submit any  
21 required data, annual reports, fees, and annual payments, and any  
22 additional information or documentation to the clearinghouse  
23 established in section 125 of this act in lieu of submission to the  
24 department.

25 NEW SECTION. **Sec. 415.** The department of ecology may direct  
26 distributors to register and submit any required data, annual  
27 reports, fees, and annual payments, and any additional information or  
28 documentation to the clearinghouse established in section 125 of this  
29 act in lieu of submission to the department.

30 **Part Five**  
31 **Other Conforming Amendments and Miscellaneous Provisions**

32 **Sec. 501.** RCW 43.21B.110 and 2022 c 180 s 812 are each amended  
33 to read as follows:

1 (1) The hearings board shall only have jurisdiction to hear and  
2 decide appeals from the following decisions of the department, the  
3 director, local conservation districts, the air pollution control  
4 boards or authorities as established pursuant to chapter 70A.15 RCW,  
5 local health departments, the department of natural resources, the  
6 department of fish and wildlife, the parks and recreation commission,  
7 and authorized public entities described in chapter 79.100 RCW:

8 (a) Civil penalties imposed pursuant to RCW 18.104.155,  
9 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070,  
10 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080,  
11 70A.65.200, 70A.455.090, sections 123, 211, and 319 of this act,  
12 76.09.170, 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270,  
13 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

14 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,  
15 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070,  
16 70A.245.020, 70A.65.200, sections 123, 211, and 319 of this act,  
17 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

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

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

28 (e) Decisions of local health departments regarding the issuance  
29 and enforcement of permits to use or dispose of biosolids under RCW  
30 70A.226.090.

31 (f) Decisions of the department regarding waste-derived  
32 fertilizer or micronutrient fertilizer under RCW 15.54.820, and  
33 decisions of the department regarding waste-derived soil amendments  
34 under RCW 70A.205.145.

35 (g) Decisions of local conservation districts related to the  
36 denial of approval or denial of certification of a dairy nutrient  
37 management plan; conditions contained in a plan; application of any  
38 dairy nutrient management practices, standards, methods, and  
39 technologies to a particular dairy farm; and failure to adhere to the  
40 plan review and approval timelines in RCW 90.64.026.

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

4 (i) Decisions of the department of natural resources, the  
5 department of fish and wildlife, and the department that are  
6 reviewable under chapter 76.09 RCW, and the department of natural  
7 resources' appeals of county, city, or town objections under RCW  
8 76.09.050(7).

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

11 (k) Decisions of the department of fish and wildlife to issue,  
12 deny, condition, or modify a hydraulic project approval permit under  
13 chapter 77.55 RCW, to issue a stop work order, to issue a notice to  
14 comply, to issue a civil penalty, or to issue a notice of intent to  
15 disapprove applications.

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

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

22 (n) Decisions of the department of ecology that are appealable  
23 under RCW 70A.245.020 or section 211 of this act to set recycled  
24 minimum postconsumer content for ((covered)) products or to  
25 temporarily exclude types of ((covered)) products in plastic  
26 containers from minimum postconsumer recycled content requirements.

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

28 (2) The following hearings shall not be conducted by the hearings  
29 board:

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

32 (b) Hearings conducted by the department pursuant to RCW  
33 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,  
34 70A.15.3110, and 90.44.180.

35 (c) Appeals of decisions by the department under RCW 90.03.110  
36 and 90.44.220.

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

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

4 **Sec. 502.** RCW 43.21B.300 and 2022 c 180 s 813 are each amended  
5 to read as follows:

6 (1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160,  
7 70A.205.280, 70A.300.090, 70A.20.050, 70A.245.040, 70A.245.050,  
8 70A.245.070, 70A.245.080, 70A.65.200, 70A.455.090, sections 123, 211,  
9 and 319 of this act, 88.46.090, 90.03.600, 90.46.270, 90.48.144,  
10 90.56.310, 90.56.330, and 90.64.102 and chapter 70A.355 RCW shall be  
11 imposed by a notice in writing, either by certified mail with return  
12 receipt requested or by personal service, to the person incurring the  
13 penalty from the department or the local air authority, describing  
14 the violation with reasonable particularity. For penalties issued by  
15 local air authorities, within 30 days after the notice is received,  
16 the person incurring the penalty may apply in writing to the  
17 authority for the remission or mitigation of the penalty. Upon  
18 receipt of the application, the authority may remit or mitigate the  
19 penalty upon whatever terms the authority in its discretion deems  
20 proper. The authority may ascertain the facts regarding all such  
21 applications in such reasonable manner and under such rules as it may  
22 deem proper and shall remit or mitigate the penalty only upon a  
23 demonstration of extraordinary circumstances such as the presence of  
24 information or factors not considered in setting the original  
25 penalty.

26 (2) Any penalty imposed under this section may be appealed to the  
27 pollution control hearings board in accordance with this chapter if  
28 the appeal is filed with the hearings board and served on the  
29 department or authority 30 days after the date of receipt by the  
30 person penalized of the notice imposing the penalty or 30 days after  
31 the date of receipt of the notice of disposition by a local air  
32 authority of the application for relief from penalty.

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

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

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

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

1 (4) If the amount of any penalty is not paid to the department  
2 within 30 days after it becomes due and payable, the attorney  
3 general, upon request of the department, shall bring an action in the  
4 name of the state of Washington in the superior court of Thurston  
5 county, or of any county in which the violator does business, to  
6 recover the penalty. If the amount of the penalty is not paid to the  
7 authority within 30 days after it becomes due and payable, the  
8 authority may bring an action to recover the penalty in the superior  
9 court of the county of the authority's main office or of any county  
10 in which the violator does business. In these actions, the procedures  
11 and rules of evidence shall be the same as in an ordinary civil  
12 action.

13 (5) All penalties recovered shall be paid into the state treasury  
14 and credited to the general fund except those penalties imposed  
15 pursuant to RCW 18.104.155, which shall be credited to the  
16 reclamation account as provided in RCW 18.104.155(7), RCW  
17 70A.15.3160, the disposition of which shall be governed by that  
18 provision, RCW 70A.245.040 (~~and~~), 70A.245.050, and section 211 of  
19 this act, which shall be credited to the recycling enhancement  
20 account created in RCW 70A.245.100, RCW 70A.300.090, which shall be  
21 credited to the model toxics control operating account created in RCW  
22 70A.305.180, RCW 70A.65.200, which shall be credited to the climate  
23 investment account created in RCW 70A.65.250, RCW 90.56.330, which  
24 shall be credited to the coastal protection fund created by RCW  
25 90.48.390, (~~and~~) RCW 70A.355.070, which shall be credited to the  
26 underground storage tank account created by RCW 70A.355.090, and  
27 chapter 70A.--- RCW (the new chapter created in section 601 of this  
28 act) and section 319 of this act, which shall be credited to the  
29 recycling enhancement account created in RCW 70A.245.100.

30 NEW SECTION. Sec. 503. A new section is added to chapter 69.50  
31 RCW to read as follows:

32 LIQUOR AND CANNABIS BOARD PACKAGING REQUIREMENTS. (1) By July 1,  
33 2026, the board, in consultation with the department of ecology, must  
34 update the rules adopted under RCW 69.50.342 and 69.50.345 related to  
35 the nature, form, and capacity of containers used by licensees under  
36 this chapter, with a goal of:

37 (a) Reducing the use of plastic packaging in an amount that is at  
38 least commensurate with the source reduction rates for covered

1 products proposed by a producer responsibility organization under  
2 section 111(1)(a)(iii) of this act; and

3 (b) Allowing for and encouraging the reuse of containers for  
4 cannabis, cannabis concentrates, useable cannabis, or cannabis-  
5 infused products.

6 (2) In addition to the source reduction and reuse to be achieved  
7 under subsection (1) of this section, the board may establish minimum  
8 postconsumer recycled content requirements for packaging of at least  
9 25 percent postconsumer recycled content by weight through the year  
10 2030, and at least 50 percent postconsumer recycled content plastic  
11 by weight beginning in the year 2031. If postconsumer recycled  
12 content requirements are established for packaging under this  
13 subsection, the board may require that producers of packaging report  
14 any required data, annual reports, fees, and annual payments, and any  
15 additional information or documentation to the board or to the  
16 department of ecology using the clearinghouse established in section  
17 125 of this act.

18 (3) Rules adopted by the board under this section must:

19 (a) Not compromise public health, safety, or packaging integrity;

20 (b) Take into consideration the availability of recycled plastic  
21 suitable to meet any minimum postconsumer recycled content  
22 requirements established under this section; and

23 (c) Take into consideration the technical feasibility of source  
24 reduction, reuse, and postconsumer recycled content requirements.

25 NEW SECTION. **Sec. 504.** AUTHORITY OF UTILITIES AND  
26 TRANSPORTATION COMMISSION. Nothing in this chapter or chapter 70A.---  
27 (the new chapter created in section 602 of this act) or 70A.--- RCW  
28 (the new chapter created in section 603 of this act) changes or  
29 limits the authority of the Washington utilities and transportation  
30 commission to regulate collection of solid waste, including curbside  
31 collection of residential recyclable materials, in accordance with  
32 chapter 81.77 RCW.

33 NEW SECTION. **Sec. 505.** FEASIBILITY STUDY. (1) By December 1,  
34 2025, the department of ecology must complete and publish on its  
35 website the feasibility analysis described in this section.

36 (a) The purpose of the feasibility analysis is to:

37 (i) Identify options to improve the convenience experienced by  
38 consumers with unwanted products or packaging covered by state



1 product stewardship, extended producer responsibility, and similar  
2 takeback programs, by harmonizing or establishing a system of common  
3 or centralized takeback centers or depots for consumers; and

4 (ii) Consider the viability, costs, and tradeoffs associated with  
5 each option that might lead to improved outcomes for consumers and  
6 improved end-of-life management outcomes for covered unwanted  
7 products.

8 (b) The department of ecology must deliver policy recommendations  
9 to the legislature by December 1, 2025.

10 (2) The department of ecology must consult with the department of  
11 health for purposes of considering the potential for integration of  
12 collection infrastructure under chapter 69.48 RCW with the collection  
13 infrastructure of other state programs.

14 (3) The feasibility analysis required under this section must:

15 (a) Be conducted by an independent third party selected by the  
16 department;

17 (b) Consider the following:

18 (i) Existing common collection infrastructure models used by  
19 other jurisdictions;

20 (ii) Existing voluntary and contractually established collection  
21 infrastructure currently used to collect unwanted products and  
22 packaging in Washington; and

23 (iii) Options to deploy curbside collection systems for the  
24 specialized collection of products;

25 (c) Include policy recommendations to the legislature to improve  
26 consumer convenience and improve environmental end-of-life management  
27 outcomes for any combination of products and packaging covered by  
28 extended producer responsibility programs, takeback programs, or  
29 product stewardship programs;

30 (i) The policy recommendations must consider:

31 (A) Beverage containers covered by the deposit return  
32 requirements of chapter 70A.--- RCW (the new chapter created in  
33 section 603 of this act);

34 (B) Covered products under chapter 70A.--- RCW (the new chapter  
35 created in section 601 of this act);

36 (C) Covered drugs under chapter 69.48 RCW;

37 (D) Covered electronic products under chapter 70A.500 RCW;

38 (E) Mercury-containing lights under chapter 70A.505 RCW;

39 (F) Photovoltaic modules under chapter 70A.510 RCW; and

40 (G) Architectural paint under chapter 70A.515 RCW.

1 (ii) Any policy recommendations for changes to the collection of  
2 products covered by programs identified in (c)(i) of this subsection  
3 should consider:

4 (A) Whether and how to amend convenience standards established  
5 under each program, including the types of curbside, drop off, event,  
6 and public and private infrastructure that serves as collection  
7 infrastructure; and

8 (B) Whether and how to specify that producers of products covered  
9 by programs recommended for inclusion in the creation of a common  
10 collection system be required to fund the establishment of the common  
11 collection infrastructure; and

12 (d) Include an opportunity for public input on the feasibility  
13 study and on any draft recommendations.

14 NEW SECTION. **Sec. 506.** LITTER TAX STUDY. (1) In consultation  
15 with producer responsibility organizations registered with the  
16 department of ecology under chapter 70A.--RCW (the new chapter  
17 created in section 601 of this act) and distributor responsibility  
18 organizations under chapter 70A.--- RCW (the new chapter created in  
19 section 603 of this act), the department of ecology and the  
20 department of revenue must study:

21 (a) The impacts of producer and distributor requirements under  
22 chapters 70A.--- (the new chapter created in section 601 of this act)  
23 and 70A.--- RCW (the new chapter created in section 603 of this act)  
24 on the litter rates of covered products and qualifying beverage  
25 containers under those chapters; and

26 (b) Possible improvements to the structure of the litter tax  
27 under chapter 82.19 RCW including, but not limited to,  
28 administration, compliance, and distribution of the tax and  
29 application of the tax to certain products, for achieving the purpose  
30 of chapter 82.19 RCW.

31 (2) By January 1, 2029, the department of ecology, in  
32 consultation with the department of revenue, must provide  
33 recommendations to the appropriate committees of the legislature on:

34 (a) Applicability of the litter tax to covered products and  
35 qualifying beverage containers, based on whether the purpose of the  
36 litter tax under chapter 82.19 RCW is being achieved for those  
37 products by the requirements of producers and distributors under  
38 chapters 70A.--- (the new chapter created in section 601 of this act)

1 and 70A.--- RCW (the new chapter created in section 603 of this act);  
2 and

3 (b) Improvements to the structure of the litter tax for meeting  
4 the purposes of chapter 82.19 RCW.

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

6 NEW SECTION. **Sec. 507.** RCW 70A.245.110 (Recycled content  
7 account) and 2021 c 313 s 14 are each repealed, effective July 1,  
8 2029.

9 NEW SECTION. **Sec. 508.** If any provision of this act or its  
10 application to any person or circumstance is held invalid, the  
11 remainder of the act or the application of the provision to other  
12 persons or circumstances is not affected.

13 **Part Six**  
14 **Codification Directives**

15 NEW SECTION. **Sec. 601.** Sections 101 through 128, 408, 504, and  
16 506 of this act constitute a new chapter in Title 70A RCW.

17 NEW SECTION. **Sec. 602.** Sections 201 through 212 of this act  
18 constitute a new chapter in Title 70A RCW.

19 NEW SECTION. **Sec. 603.** Sections 301 through 319 and 415 of this  
20 act constitute a new chapter in Title 70A RCW.

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