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**SENATE BILL 5144**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Senators Stanford, Nguyen, Cleveland, Frame, Hasegawa, Hunt, Keiser, Kuderer, Lovelett, Nobles, Pedersen, Rolfes, Valdez, and C. Wilson

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1 AN ACT Relating to providing for responsible environmental  
2 management of batteries; amending RCW 43.21B.110 and 43.21B.300;  
3 adding a new section to chapter 82.04 RCW; adding a new chapter to  
4 Title 70A RCW; and prescribing penalties.

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

6 NEW SECTION. **Sec. 1.** INTENT. The legislature finds that:

7 (1) It is in the public interest of the citizens of Washington to  
8 encourage the recovery and reuse of materials, such as metals, that  
9 replace the output of mining and other extractive industries.

10 (2) Without a dedicated battery stewardship program, battery user  
11 confusion regarding proper disposal options will continue to persist.

12 (3) Ensuring the proper handling, recycling, and end-of-life  
13 management of used batteries prevents the release of toxic materials  
14 into the environment and removes materials from the waste stream  
15 that, if mishandled, may present safety concerns to workers, such as  
16 by igniting fires at solid waste handling facilities. For this  
17 reason, batteries should not be placed into commingled recycling  
18 containers or disposed of via traditional garbage collection  
19 containers.

20 (4) Jurisdictions around the world have successfully implemented  
21 battery stewardship laws that have helped address the challenges

1 posed by the end-of-life management of batteries. Because it is  
2 difficult for customers to differentiate between types and  
3 chemistries of batteries, it is the best practice for battery  
4 stewardship programs to collect all battery types and chemistries.  
5 Furthermore, it is appropriate for larger batteries used in emerging  
6 market sectors such as electric vehicles, solar power arrays, and  
7 data centers, to be managed to ensure environmentally positive  
8 outcomes similar to those achieved by a battery stewardship program,  
9 both because of the potential economic value of large batteries used  
10 for these purposes and the anticipated profusion of these larger  
11 batteries as these market sectors mature.

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

15 (1) (a) "Battery-containing product" means a product containing  
16 primary or rechargeable batteries that are covered batteries.

17 (b) A "battery-containing product" does not include a covered  
18 electronic product under an approved plan implemented under chapter  
19 70A.500 RCW.

20 (2) "Battery management hierarchy" means a management system of  
21 covered batteries prioritized in descending order as follows:

22 (a) Waste prevention and reduction;

23 (b) Reuse, when reuse is appropriate;

24 (c) Recycling, as defined in this chapter; and

25 (d) Other means of end-of-life management, which may only be  
26 utilized after demonstrating to the department that it is not  
27 feasible to manage the batteries under the higher priority options in  
28 (a) through (c) of this subsection.

29 (3) "Battery stewardship organization" means a producer that  
30 directly implements a battery stewardship plan required under this  
31 chapter or a nonprofit organization designated by a producer or group  
32 of producers to implement a battery stewardship plan required under  
33 this chapter.

34 (4) "Collection rate" means a percentage, by weight, that a  
35 battery stewardship organization collects that is calculated by  
36 dividing the total weight of primary and rechargeable batteries  
37 collected during a calendar year by the average annual weight of  
38 primary and rechargeable batteries that were estimated to have been

1 sold in the state by all producers participating in an approved  
2 battery stewardship plan during the previous three calendar years.

3 (5) (a) "Covered battery" means a portable battery or, beginning  
4 January 1, 2029, a medium format battery.

5 (b) "Covered battery" does not include:

6 (i) A battery contained within a medical device, as specified in  
7 Title 21 U.S.C. Sec. 321(h) as it existed as of the effective date of  
8 this section, that is not designed and marketed for sale or resale  
9 principally to consumers for personal use;

10 (ii) A battery that contains an electrolyte as a free liquid;

11 (iii) A battery subject to the provisions of RCW 70A.205.505  
12 through 70A.205.530; and

13 (iv) A battery in a battery-containing product that is not  
14 intended or designed to be easily removable from the battery-  
15 containing product.

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

17 (7) "Easily removable" means designed by the manufacturer to be  
18 removable by the user of the product with no more than commonly used  
19 household tools.

20 (8) "Environmentally sound management practices" means practices  
21 that: (a) Comply with all applicable laws and rules to protect  
22 workers, public health, and the environment; (b) provide for adequate  
23 recordkeeping, tracking, and documenting of the fate of materials  
24 within the state and beyond; and (c) include comprehensive liability  
25 coverage for the battery stewardship organization, including  
26 environmental liability coverage.

27 (9) "Final disposition" means the final processing of a collected  
28 battery to produce usable end products, at the point where the  
29 battery has been reduced to its constituent parts, reusable portions  
30 made available for use, and any residues handled as wastes in  
31 accordance with applicable law.

32 (10) "Large format battery" means a rechargeable battery that  
33 weighs more than 25 pounds or has a rating of more than 2,000 watt-  
34 hours and a primary battery that weighs more than 25 pounds.

35 (11) "Medium format battery" means the following primary or  
36 rechargeable covered batteries:

37 (a) For rechargeable batteries, a battery weighing more than 11  
38 pounds or has a rating of more than 300 watt-hours, or both, and no  
39 more than 25 pounds and has a rating of no more than 2,000 watt-  
40 hours;

1 (b) For primary batteries, a battery weighing more than 4.4  
2 pounds but not more than 25 pounds.

3 (12) "Portable battery" means the following primary or  
4 rechargeable covered batteries:

5 (a) For rechargeable batteries, a battery weighing no more than  
6 11 pounds and has a rating of no more than 300 watt-hours;

7 (b) For primary batteries, a battery weighing no more than 4.4  
8 pounds.

9 (13) "Primary battery" means a battery that is not capable of  
10 being recharged.

11 (14)(a) "Producer" means the following person responsible for  
12 compliance with requirements under this chapter for a covered battery  
13 or battery-containing product sold, offered for sale, or distributed  
14 in or into this state:

15 (i) The person that manufactures the covered battery or covered  
16 battery-containing product and sells or offers for sale in or into  
17 the state that battery or product under the person's own brand;

18 (ii) If there is no person to which (a)(i) of this subsection  
19 applies, the owner of a brand under which the covered battery or  
20 covered battery-containing product is sold, offered for sale, or  
21 distributed in or into the state;

22 (iii) If there is no person to which (a)(i) or (ii) of this  
23 subsection applies, the licensee of a brand under which the covered  
24 battery or covered battery-containing product is sold, offered for  
25 sale, or distributed in or into the state;

26 (iv) If there is no person to which (a)(i), (ii), or (iii) of  
27 this subsection applies, a person that imports the covered battery or  
28 covered battery-containing product into the United States for sale or  
29 distribution into Washington;

30 (v) If there is no person described in (a)(i), (ii), (iii), or  
31 (iv) of this subsection over whom the state can constitutionally  
32 exercise jurisdiction, the producer is the person who imports or  
33 distributes the covered battery or covered battery-containing product  
34 in or into the state.

35 (b) A producer does not include any person who only manufactures,  
36 sells, offers for sale, distributes, or imports into the state a  
37 battery-containing product if the only batteries used by the battery-  
38 containing product are supplied by a producer participating in an  
39 approved battery stewardship plan.

1 (c) A retailer that sells covered batteries or battery-containing  
2 products under its own brand, or that otherwise meets the definition  
3 of a producer in (a) and (b) of this subsection, is a producer for  
4 purposes of this chapter.

5 (15) "Program" means a program implemented by a battery  
6 stewardship organization consistent with an approved battery  
7 stewardship plan.

8 (16) "Rechargeable battery" means a battery that contains one or  
9 more voltaic or galvanic cells, electrically connected to produce  
10 electric energy, designed to be recharged.

11 (17) "Recycling" means transforming or remanufacturing waste  
12 materials into usable or marketable materials for use other than:

13 (a) Combustion;

14 (b) Incineration;

15 (c) Energy generation;

16 (d) Fuel production; or

17 (e) Beneficial reuse in the construction and operation of a solid  
18 waste landfill, including use of alternative daily cover.

19 (18) "Recycling efficiency rate" means the ratio of the weight of  
20 covered battery components recycled by a program operator from  
21 covered batteries to the weight of those covered batteries collected  
22 by the program operator.

23 (19) "Retailer" means a person who sells covered batteries or  
24 battery-containing products in or into this state or offers or  
25 otherwise makes available covered batteries or battery-containing  
26 products to a customer, including other businesses, for use in this  
27 state.

28 (20) "Urban cluster" means areas of population density of 2,500  
29 to 50,000, as defined by the United States census bureau as of  
30 January 1, 2021. The department may update this definition to align  
31 with changes made by the United States census bureau.

32 (21) "Urbanized area" means areas of high population density with  
33 populations of 50,000 or greater, as defined by the United States  
34 census bureau as of January 1, 2021. The department may update this  
35 definition to align with changes made by the United States census  
36 bureau.

37 NEW SECTION. **Sec. 3.** REQUIREMENT THAT PRODUCERS IMPLEMENT A  
38 STEWARDSHIP PLAN. (1) Beginning January 1, 2027, each producer  
39 selling covered batteries or battery-containing products in or into

1 the state of Washington shall participate in an approved Washington  
2 state battery stewardship plan through participation in and  
3 appropriate funding of a battery stewardship organization.

4 (2) A producer that does not participate in a battery stewardship  
5 organization and battery stewardship plan may not sell covered  
6 batteries or battery-containing products covered by this chapter in  
7 or into Washington.

8 NEW SECTION. **Sec. 4.** ROLE OF RETAILERS. (1) Beginning July 1,  
9 2027, for portable batteries, and July 1, 2029, for medium format  
10 batteries, a retailer may not sell, offer for sale, or otherwise make  
11 available for sale a covered battery or battery-containing product  
12 unless the producer of the covered battery or battery-containing  
13 product certifies to the retailer that the producer participates in a  
14 battery stewardship organization whose plan has been approved by the  
15 department.

16 (2) A retailer is in compliance with the requirements of  
17 subsection (1) of this section and is not subject to penalties under  
18 section 12 of this act as long as the website made available by the  
19 department under section 11 of this act lists, as of the date a  
20 product is made available for retail sale, a producer or brand of  
21 covered battery or battery-containing product sold by the retailer as  
22 being a participant in an approved plan or the implementer of an  
23 approved plan.

24 (3) Retailers of covered batteries or battery-containing products  
25 are not required to make retail locations available to serve as  
26 collection locations for a stewardship program operated by a battery  
27 stewardship organization. Retailers that serve as a collection  
28 location must comply with the requirements for collection locations,  
29 consistent with section 8 of this act.

30 (4) A retailer may not sell, offer for sale, or otherwise make  
31 available for sale covered batteries, unless those batteries are  
32 marked consistent with the requirements of section 14 of this act. A  
33 producer of a battery-containing product containing a covered battery  
34 must certify to the retailers of their product that the battery  
35 contained in the battery-containing product is marked consistent with  
36 the requirements of section 14 of this act. A retailer may rely on  
37 this certification for purposes of compliance under this subsection.

38 (5) A retailer selling or offering covered batteries or battery-  
39 containing products for sale in Washington may provide information,

1 provided to the retailer by the battery stewardship organization,  
2 regarding available end-of-life management options for covered  
3 batteries collected by the battery stewardship organization. The  
4 information that a battery stewardship organization must make  
5 available to retailers for voluntary use by retailers must include,  
6 but is not limited to, in-store signage, written materials, and other  
7 promotional materials that retailers may use to inform customers of  
8 the available end-of-life management options for covered batteries  
9 collected by the battery stewardship organization.

10 (6) Retailers, producers, or battery stewardship organizations  
11 may not charge a specific point-of-sale fee to consumers to cover the  
12 administrative or operational costs of the battery stewardship  
13 organization or the battery stewardship program.

14 NEW SECTION. **Sec. 5.** STEWARDSHIP PLAN COMPONENTS. (1) Within  
15 six months of the rules adopted by the department, each battery  
16 stewardship organization must submit a plan for covered portable  
17 batteries to the department for approval. Within 24 months of the  
18 rules adopted by the department, each battery stewardship  
19 organization must submit a plan for covered medium format batteries  
20 to the department for approval. A battery stewardship organization  
21 may submit a plan at any time to the department for review and  
22 approval. The department must review and may approve a plan based on  
23 whether it contains and adequately addresses the following  
24 components:

25 (a) Lists and provides contact information for each producer,  
26 battery brand, and battery-containing product brand covered in the  
27 plan;

28 (b) Proposes performance goals, consistent with section 6 of this  
29 act, including establishing performance goals for each of the next  
30 three upcoming calendar years of program implementation;

31 (c) Describes how the battery stewardship organization will make  
32 retailers aware of their obligation to sell only covered batteries  
33 and battery-containing products of producers participating in an  
34 approved plan;

35 (d) Describes the education and communications strategy being  
36 implemented to effectively promote participation in the approved  
37 covered battery stewardship program and provide the information  
38 necessary for effective participation of consumers, retailers, and  
39 others;

1 (e) Describes how the battery stewardship organization will make  
2 available to retailers, for voluntary use, in-store signage, written  
3 materials, and other promotional materials that retailers may use to  
4 inform customers of the available end-of-life management options for  
5 covered batteries collected by the battery stewardship organization;

6 (f) A list of promotional activities to be undertaken, and the  
7 identification of consumer awareness goals and strategies that the  
8 program will employ to achieve these goals after the program begins  
9 to be implemented;

10 (g) Includes collection site safety training procedures related  
11 to covered battery collection activities at collection sites,  
12 including appropriate protocols to reduce risks of spills or fires  
13 and response protocols in the event of a spill or fire, and a  
14 protocol for safe management of damaged batteries that are returned  
15 to collection sites;

16 (h) A description of the method to establish and administer a  
17 means for fully funding the program in a manner that equitably  
18 distributes the program's costs among the producers that are part of  
19 the battery stewardship organization. For producers that elect to  
20 meet the requirements of this chapter individually, without joining a  
21 battery stewardship organization, a description of the proposed  
22 method to establish and administer a means for fully funding the  
23 program;

24 (i) A description of the financing methods used to implement the  
25 plan, consistent with section 7 of this act, including how producer  
26 fees and fee modulation will incorporate design for recycling and  
27 resource conservation as objectives, and a template reimbursement  
28 agreement, developed in consultation with local governments, for  
29 local governments and other program stakeholders;

30 (j) A description of how the program will collect all covered  
31 battery chemistries and brands on a free, continuous, convenient,  
32 visible, and accessible basis, and consistent with the requirements  
33 of section 8 of this act, including a description of how the  
34 statewide convenience standard will be met and a list of collection  
35 sites, including the address and latitude and longitude of collection  
36 sites;

37 (k) A description of the criteria to be used in the program to  
38 determine whether an entity may serve as a collection location for  
39 discarded batteries under the program;



1 (l) Collection goals for each of the first three years of  
2 implementation of the battery stewardship plan that are based on the  
3 estimated total weight of primary and rechargeable covered batteries  
4 that have been sold in the state in the previous three calendar years  
5 by the producers participating in the battery stewardship plan;

6 (m) Identification of proposed brokers, transporters, processors,  
7 and facilities to be used by the program for the final disposition of  
8 batteries and how collected batteries will be managed in:

9 (i) An environmentally sound and socially just manner at  
10 facilities operating with human health and environmental protection  
11 standards that are broadly equivalent to or better than those  
12 required in the United States and other countries that are members of  
13 the battery stewardship organization for economic cooperation and  
14 development; and

15 (ii) A manner consistent with the battery management hierarchy,  
16 including how each proposed facility used for the final disposition  
17 of batteries will recycle or otherwise manage batteries;

18 (n) Details how the program will achieve a recycling efficiency  
19 rate, calculated consistent with section 10 of this act, of at least  
20 60 percent for rechargeable batteries and at least 70 percent for  
21 primary batteries; and

22 (o) Proposes goals for increasing public awareness of the  
23 program, including subgoals applicable to public awareness of the  
24 program in vulnerable populations and overburdened communities  
25 identified by the department under chapter 70A.02 RCW, and describes  
26 how the public education and outreach components of the program under  
27 section 9 of this act will be implemented.

28 (2) If required by the department, a battery stewardship  
29 organization must submit a new plan to the department for approval:

30 (a) If there are significant changes to the methods of  
31 collection, transport, or end-of-life management of covered batteries  
32 under section 8 of this act that are not covered by the plan. The  
33 department may, by rule, identify the types of significant changes  
34 that require a new plan to be submitted to the department for  
35 approval. For purposes of this subsection, adding or removing a  
36 processor or transporter under the plan is not considered a  
37 significant change that requires a plan resubmittal;

38 (b) To address the novel inclusion of medium format batteries or  
39 large format batteries as covered batteries under the plan; and

40 (c) No less than every five years.

1 (3) If required by the department, a battery stewardship  
2 organization must provide plan amendments to the department for  
3 approval:

4 (a) When proposing changes to the performance goals under section  
5 6 of this act;

6 (b) When there is a change to the method of financing plan  
7 implementation under section 7 of this act;

8 (c) When adding or removing a processor or transporter, as part  
9 of a quarterly update submitted to the department; or

10 (d) Proposing updated performance goals based upon the to-date  
11 experience of the program, which must be submitted at the time the  
12 second annual report is submitted to the department by a battery  
13 stewardship organization under section 10 of this act and every two  
14 years thereafter.

15 (4) As part of a quarterly update, a battery stewardship  
16 organization must notify the department after a producer begins or  
17 ceases to participate in a battery stewardship organization. The  
18 quarterly update submitted to the department must also include a  
19 current list of the producers and brands participating in the plan.

20 (5) No earlier than five years after the initial approval of a  
21 plan, the department may require a battery stewardship organization  
22 to submit a revised plan, which may include improvements to the  
23 collection site network or increased expenditures dedicated to  
24 education and outreach if the approved plan has not met the  
25 performance goals under section 6 of this act.

26 NEW SECTION. **Sec. 6.** STEWARDSHIP PROGRAM COMPONENTS—PERFORMANCE  
27 GOALS. (1) Each battery stewardship plan must include performance  
28 goals that measure, on an annual basis, the achievements of the  
29 program. Performance goals must take into consideration technical  
30 feasibility and economic practicality in achieving continuous,  
31 meaningful progress in improving:

32 (a) The rate of battery collection for recycling in Washington;

33 (b) The recycling efficiency of the program; and

34 (c) Public awareness of the program.

35 (2) The performance goals established in each battery stewardship  
36 plan must include, but are not limited to:

37 (a) Target collection rates;

1 (b) Target recycling efficiency rates of at least 60 percent for  
2 rechargeable batteries and at least 70 percent for primary batteries;  
3 and

4 (c) Goals for public awareness, convenience, and accessibility  
5 that meet or exceed the minimum requirements established in section 8  
6 of this act.

7 NEW SECTION. **Sec. 7.** STEWARDSHIP PROGRAM COMPONENTS—FUNDING.

8 (1) Each battery stewardship organization must ensure adequate  
9 funding is available to fully implement approved battery stewardship  
10 plans, including the implementation of aspects of the plan  
11 addressing:

12 (a) Battery collection, transporting, and processing;

13 (b) Education and outreach;

14 (c) Program evaluation; and

15 (d) Payment of the administrative fees to the department under  
16 section 11 of this act.

17 (2) A battery stewardship organization implementing a battery  
18 stewardship plan on behalf of producers must develop, and continually  
19 improve over the years of program implementation, a system to collect  
20 charges from participating producers to cover the costs of plan  
21 implementation in an environmentally sound and socially just manner  
22 that encourages the use of design attributes that reduce the  
23 environmental impacts of covered batteries, such as through the use  
24 of eco-modulated fees. Examples of fee structures that meet the  
25 requirements of this subsection include using eco-modulated fees to:

26 (a) Encourage designs intended to facilitate reuse and recycling;

27 (b) Encourage the use of recycled content;

28 (c) Discourage the use of problematic materials that increase  
29 system costs of managing covered products; and

30 (d) Encourage other design attributes that reduce the  
31 environmental impacts of covered products.

32 (3) (a) Each battery stewardship organization is responsible for  
33 all costs of participating covered battery collection,  
34 transportation, processing, education, administration, agency  
35 reimbursement, recycling, and end-of-life management in accordance  
36 with the battery management hierarchy and environmentally sound  
37 management practices.

38 (b) Each battery stewardship organization must meet the  
39 collection goals as specified in section 5 of this act.

1 (c) A battery stewardship organization is not authorized to  
2 reduce or cease collection, education and outreach, or other  
3 activities implemented under an approved plan based on achievement of  
4 program performance goals.

5 (4) (a) A battery stewardship organization must reimburse local  
6 governments for demonstrable costs incurred as a result of a local  
7 government facility or solid waste handling facility serving as a  
8 collection location for a program including, but not limited to,  
9 associated labor costs and other costs associated with accessibility  
10 and collection site standards such as storage.

11 (b) A battery stewardship organization shall at a minimum provide  
12 collection sites with appropriate containers for covered batteries  
13 subject to its program, training, signage, safety guidance, and  
14 educational materials, at no cost to the collection sites.

15 (c) A battery stewardship organization must include in its  
16 battery stewardship plan a template of the service agreement and any  
17 other forms, contracts, or other documents for use in distribution of  
18 reimbursements. The service agreement template must be developed with  
19 local government input. The entities seeking or receiving  
20 reimbursement from the battery stewardship organization are not  
21 required to use the template agreement included in the program plan  
22 and are not limited to the terms of the template agreement included  
23 in the program plan.

24 NEW SECTION. **Sec. 8.** STEWARDSHIP PROGRAM COMPONENTS—COLLECTION  
25 AND MANAGEMENT REQUIREMENTS. (1) Battery stewardship organizations  
26 implementing a battery stewardship plan must provide for the  
27 collection of all covered batteries, including all chemistries and  
28 brands of covered batteries, on a free, continuous, convenient,  
29 visible, and accessible basis to any person, business, government  
30 agency, or nonprofit organization. A fee may not be charged at the  
31 time unwanted covered batteries are delivered or collected for  
32 management. Except as provided in subsection (2) (b) of this section,  
33 each battery stewardship plan must allow any person, business,  
34 government agency, or nonprofit organization to discard each  
35 chemistry and brand of covered battery at each collection site that  
36 counts towards the satisfaction of the collection site criteria in  
37 subsection (3) of this section.

38 (2) (a) For each collection site utilized by the program, each  
39 battery stewardship organization must provide suitable collection

1 containers for covered batteries that are segregated from other solid  
2 waste or make mutually agreeable alternative arrangements for the  
3 collection of batteries at the site. The location of collection  
4 containers at each collection site used by the program must be within  
5 view of a responsible person and must be accompanied by signage made  
6 available to the collection site by the battery stewardship  
7 organization that informs customers regarding the end-of-life  
8 management options for batteries provided by the collection site  
9 under this chapter. Each collection site must adhere to the  
10 operations manual and other safety information provided to the  
11 collection site by the battery stewardship organization.

12 (b) Medium format batteries may only be collected at household  
13 hazardous waste collection locations or other locations that are  
14 staffed by persons who are certified to handle and ship hazardous  
15 materials under federal regulations adopted by the United States  
16 department of transportation pipeline and hazardous materials safety  
17 administration.

18 (c)(i) Damaged and defective batteries are intended to be  
19 collected at collection locations staffed by persons trained to  
20 handle and ship those batteries.

21 (ii) Each battery stewardship organization must provide for  
22 collection of damaged and defective batteries in each county of the  
23 state, either through collection sites or collection events with  
24 qualified staff as specified in (c)(i) of this subsection. Collection  
25 events should be provided periodically throughout the year where  
26 practicable, but must be provided at least once per year at a  
27 minimum.

28 (iii) As used in this subsection, "damaged and defective  
29 batteries" means batteries that have been damaged or identified by  
30 the manufacturer as being defective for safety reasons, that have the  
31 potential of producing a dangerous evolution of heat, fire, or short  
32 circuit, as referred to in 49 C.F.R. Sec. 173.185(f) as of January 1,  
33 2023.

34 (3)(a) Each battery stewardship organization implementing a  
35 battery stewardship plan shall ensure statewide collection  
36 opportunities for all covered batteries. Battery stewardship  
37 organizations shall coordinate activities with other program  
38 operators, including covered battery collection and recycle programs  
39 and electronic waste recyclers, with regard to the proper management  
40 or recycling of collected covered batteries, for purposes of

1 providing the efficient delivery of services and avoiding unnecessary  
2 duplication of effort and expense. Statewide collection opportunities  
3 must be determined by geographic information modeling that considers  
4 permanent collection sites. A program may rely, in part, on  
5 collection events to supplement the permanent collection services  
6 required in (a) and (b) of this subsection. However, only permanent  
7 collection services specified in (a) and (b) of this subsection  
8 qualify towards the satisfaction of the requirements of this  
9 subsection.

10 (b) For portable batteries, each battery stewardship organization  
11 must provide statewide collection opportunities that include, but are  
12 not limited to, the provision of:

13 (i) At least one permanent collection site for portable batteries  
14 within a 15 mile radius for at least 95 percent of Washington  
15 residents;

16 (ii) The establishment of collection sites that are accessible  
17 and convenient to overburdened communities identified by the  
18 department under chapter 70A.02 RCW, in an amount that is roughly  
19 proportional to the number and population of overburdened communities  
20 identified by the department under chapter 70A.02 RCW relative to the  
21 population or size of the state as a whole;

22 (iii) At least one permanent collection site for portable  
23 batteries in addition to those required in (b)(i) of this subsection  
24 for every 30,000 residents of an urbanized area and for every urban  
25 cluster of at least 30,000 residents. For the purposes of compliance  
26 with this subsection (3)(b)(iii), a battery stewardship organization  
27 and the department may rely upon designations of urban locations by  
28 the United States census bureau that are determined by the department  
29 to be similar to the definitions of urbanized area or urban cluster  
30 in section 2 of this act;

31 (iv) Collection opportunities for portable batteries at special  
32 locations where batteries are often spent and replaced, such as  
33 supervised locations at parks with stores and campgrounds; and

34 (v) Service to areas without a permanent collection site,  
35 including service to island and geographically isolated communities.

36 (c) For medium format batteries, a battery stewardship  
37 organization must provide statewide collection opportunities that  
38 include, but are not limited to, the provision of:

39 (i) At least 25 collection sites in Washington;

1 (ii) Reasonable geographic dispersion of collection sites  
2 throughout the state;

3 (iii) A collection location in each county of at least 200,000  
4 persons, as determined by the most recent population estimate of the  
5 office of financial management;

6 (iv) The establishment of collection sites that are accessible to  
7 public transit and that are convenient to overburdened communities  
8 identified by the department under chapter 70A.02 RCW; and

9 (v) Service to areas without a permanent collection site,  
10 including service to island and geographically isolated communities.  
11 A battery stewardship organization must ensure that there is a  
12 collection site or annual collection event in each county of the  
13 state. Collection events should be provided periodically throughout  
14 the year where practicable, but must be provided at least once per  
15 year at a minimum.

16 (4) (a) Stewardship programs must use existing public and private  
17 waste collection services and facilities, including battery  
18 collection locations that are established through other battery  
19 collection services, transporters, consolidators, processors,  
20 retailers, and curbside services, where cost-effective, mutually  
21 agreeable, and otherwise practicable.

22 (b) Stewardship programs must use as a collection site for  
23 portable batteries any retailer, wholesaler, municipality, solid  
24 waste management facility, or other entity that meets the criteria  
25 for collection locations in the approved plan, upon the submission of  
26 a request by the entity to the battery stewardship organization to  
27 serve as a collection site.

28 (c) A battery stewardship organization may suspend or terminate a  
29 collection site or service that does not adhere to the collection  
30 site criteria in the approved plan and that poses an immediate health  
31 and safety concern.

32 (5) (a) Stewardship programs are not required to provide for the  
33 collection of battery-containing products.

34 (b) Stewardship programs are not required to provide for the  
35 collection of batteries that:

36 (i) Are not easily removable from the product other than by the  
37 manufacturer; and

38 (ii) Remain contained in a battery-containing product at the time  
39 of delivery to a collection site.

1 (c) Stewardship programs are required to provide for the  
2 collection of loose batteries.

3 (d) Stewardship programs are not required to provide for the  
4 collection of batteries still contained in covered electronic  
5 products under chapter 70A.500 RCW.

6 (6) Batteries collected by the program must be managed consistent  
7 with the battery management hierarchy. Lower priority end-of-life  
8 battery management options on the battery management hierarchy may be  
9 used by a program only when a battery stewardship organization  
10 documents to the department that all higher priority battery  
11 management options on the battery management hierarchy are not  
12 technologically feasible or economically practical.

13 NEW SECTION. **Sec. 9.** STEWARDSHIP PROGRAM COMPONENTS—EDUCATION  
14 AND OUTREACH REQUIREMENTS. (1) Each battery stewardship organization  
15 must carry out promotional activities in support of plan  
16 implementation including, but not limited to, the development:

17 (a) And maintenance of a website;

18 (b) And distribution of periodic press releases and articles;

19 (c) And placement of advertisements for use on social media or  
20 other relevant media platforms;

21 (d) Of promotional materials about the program and the  
22 restriction on the disposal of covered batteries in section 15 of  
23 this act to be used by retailers, government agencies, and nonprofit  
24 organizations;

25 (e) And distribution of the collection site safety training  
26 procedures approved by the department to collection sites to help  
27 ensure proper management of covered batteries at collection  
28 locations; and

29 (f) And implementation of outreach and educational resources  
30 targeted to overburdened communities and vulnerable populations  
31 identified by the department under chapter 70A.02 RCW that are  
32 conceptually, linguistically, and culturally accurate for the  
33 communities served and reach the state's diverse ethnic populations,  
34 including through meaningful consultation with communities that bear  
35 disproportionately higher levels of adverse environmental and social  
36 justice impacts.

37 (2) Each battery stewardship organization must provide:

38 (a) Consumer-focused educational promotional materials to each  
39 collection location used by the program and accessible by customers



1 of retailers that sell covered batteries or battery-containing  
2 products; and

3 (b) Safety information related to covered battery collection  
4 activities to the operator of each collection site, including  
5 appropriate protocols to reduce risks of spills or fires and response  
6 protocols in the event of a spill or fire.

7 (3) (a) Each battery stewardship organization must provide  
8 educational materials to the operator of each collection site for the  
9 management of recalled batteries, which are not intended to be part  
10 of collection as provided under section 8 of this act, to help  
11 facilitate transportation and processing of recalled batteries.

12 (b) A battery stewardship organization may seek reimbursement  
13 from the manufacturer of the recalled battery for expenses incurred  
14 in the collection, transportation, or processing of those batteries.

15 (4) Upon request by a retailer, the battery stewardship  
16 organization must provide the retailer educational materials  
17 describing collection opportunities for batteries.

18 (5) If multiple battery stewardship organizations are  
19 implementing plans approved by the department, the battery  
20 stewardship organizations must coordinate in carrying out their  
21 education and outreach responsibilities under this section and must  
22 include in their annual reports to the department under section 10 of  
23 this act a summary of their coordinated education and outreach  
24 efforts.

25 (6) During the first year of program implementation and every  
26 five years thereafter, each battery stewardship organization must  
27 carry out a survey of public awareness regarding the requirements of  
28 the program established under this chapter, including the provisions  
29 of section 15 of this act. Each battery stewardship organization must  
30 share the results of the public awareness surveys with the  
31 department.

32 NEW SECTION. **Sec. 10.** REPORTING REQUIREMENTS. (1) By June 1,  
33 2028, and each June 1st thereafter, each battery stewardship  
34 organization must submit an annual report to the department covering  
35 the preceding calendar year of battery stewardship plan  
36 implementation. The report must include:

37 (a) An independent financial assessment of a program implemented  
38 by the battery stewardship organization, including a breakdown of the

1 program's expenses, such as collection, recycling, education, and  
2 overhead, when required by the department;

3 (b) A summary financial statement documenting the financing of a  
4 battery stewardship organization's program and an analysis of program  
5 costs and expenditures, including an analysis of the program's  
6 expenses, such as collection, transportation, recycling, education,  
7 and administrative overhead. The summary financial statement must be  
8 sufficiently detailed to provide transparency that funds collected  
9 from producers as a result of their activities in Washington are  
10 spent on program implementation in Washington. Battery stewardship  
11 organizations implementing similar battery stewardship programs in  
12 multiple states may submit a financial statement including all  
13 covered states, as long as the statement breaks out financial  
14 information pertinent to Washington;

15 (c) The weight, by chemistry, of covered batteries collected  
16 under the program;

17 (d) The weight of materials recycled from covered batteries  
18 collected under the program, in total, and by battery recycling  
19 process;

20 (e) A calculation of the recycling efficiency rates, as measured  
21 consistent with subsection (2) of this section;

22 (f) For each facility used for the final disposition of  
23 batteries, a description of how the facility recycled or otherwise  
24 disposed of batteries and battery components;

25 (g) The weight and chemistry of batteries sent to each facility  
26 used for the final disposition of batteries. The information in this  
27 subsection (1)(g) may be approximated for program operations in  
28 Washington based on extrapolations of national or regional data for  
29 programs in operation in multiple states;

30 (h) The collection rate achieved by battery chemistry under the  
31 program, including a description of how this collection rate was  
32 calculated;

33 (i) The estimated aggregate sales, by weight and chemistry, of  
34 batteries and batteries contained in or with battery-containing  
35 products sold in Washington by participating producers for each of  
36 the previous three calendar years;

37 (j) A description of the manner in which the collected batteries  
38 were managed and recycled, including a discussion of best available  
39 technologies and the recycling efficiency rate;

1 (k) A description of education and outreach efforts supporting  
2 plan implementation including, but not limited to, a summary of  
3 education and outreach provided to consumers, collection sites,  
4 manufacturers, distributors, and retailers by the program operator  
5 for the purpose of promoting the collection and recycling of covered  
6 batteries, a description of how that education and outreach met the  
7 requirements of section 9 of this act, samples of education and  
8 outreach materials, a summary of coordinated education and outreach  
9 efforts with any other battery stewardship organizations implementing  
10 a plan approved by the department, and a summary of any changes made  
11 during the previous calendar year to education and outreach  
12 activities;

13 (l) A list of all collection locations and accompanying latitude  
14 and longitude data and an address for each listed site, and an up-to-  
15 date map indicating the location of all collection sites used to  
16 implement the program, with links to appropriate websites where there  
17 are existing websites associated with a location;

18 (m) A description of methods used to collect, transport, and  
19 recycle covered batteries by the battery stewardship organization;

20 (n) A summary on progress made towards the program performance  
21 goals established under section 6 of this act, and an explanation of  
22 why performance goals were not met, if applicable; and

23 (o) An evaluation of the effectiveness of education and outreach  
24 activities.

25 (2) The weight of batteries or recovered resources from those  
26 batteries must only be counted once and may not be counted by more  
27 than one producer.

28 (3) In addition to the requirements of subsection (1) of this  
29 section, with respect to each facility used in the processing or  
30 disposition of batteries collected under the program, the battery  
31 stewardship organization must report:

32 (a) Whether the facility is located domestically, in an  
33 organization for economic cooperation and development country, or in  
34 a country that meets organization for economic cooperation and  
35 development operating standards; and

36 (b) What facilities processed the batteries, including a summary  
37 of any violations of environmental or labor laws and regulations over  
38 the previous three years at each facility.

39 (4) If a battery stewardship organization has disposed of covered  
40 batteries through energy recovery, incineration, or landfilling during

1 the preceding calendar year of program implementation, the annual  
2 report must specify the steps that the battery stewardship  
3 organization will take to make the recycling of covered batteries  
4 cost-effective, where possible, or to otherwise increase battery  
5 recycling rates achieved by the battery stewardship organization.

6 (5) A producer or battery stewardship organization that submits  
7 information or records to the department under this chapter may  
8 request that the information or records be made available only for  
9 the confidential use of the department, the director of the  
10 department, or the appropriate division of the department. The  
11 director of the department must consider the request and if this  
12 action is not detrimental to the public interest and is otherwise in  
13 accordance with the policies and purposes of chapter 43.21A RCW, the  
14 director must grant the request for the information to remain  
15 confidential as authorized in RCW 43.21A.160.

16 NEW SECTION. **Sec. 11.** FEE AND DEPARTMENT OF ECOLOGY ROLE. (1)  
17 The department must adopt rules as necessary for the purpose of  
18 implementing, administering, and enforcing this chapter. The  
19 department must by rule establish fees, to be paid annually by a  
20 battery stewardship organization, that are adequate to cover the  
21 department's full costs of implementing, administering, and enforcing  
22 this chapter. If the department adopts rules that require producers  
23 of certain large format batteries or other battery categories  
24 addressed in sections 16 and 17 of this act to participate in a  
25 battery stewardship organization regulated by the department, the  
26 department may establish fees to be paid annually by a battery  
27 stewardship organization that are adequate to cover the department's  
28 full costs of implementing, administering, and enforcing the  
29 requirements of this chapter applicable to those batteries. All fees  
30 must be based on costs related to implementing, administering, and  
31 enforcing this chapter, not to exceed expenses incurred by the  
32 department for these activities.

33 (2) The responsibilities of the department in implementing,  
34 administering, and enforcing this chapter include, but are not  
35 limited to:

36 (a) Reviewing submitted stewardship plans and plan amendments and  
37 making determinations as to whether to approve the plan or plan  
38 amendment;

1 (i) The department must provide a letter of approval for the plan  
2 or plan amendment if it provides for the establishment of a  
3 stewardship program that meets the requirements of sections 3 through  
4 9 of this act;

5 (ii) If a plan or plan amendment is rejected, the department must  
6 provide the reasons for rejecting the plan to the battery stewardship  
7 organization. The battery stewardship organization must submit a new  
8 plan within 60 days after receipt of the letter of disapproval; and

9 (iii) When a plan or an amendment to an approved plan is  
10 submitted under this section, the department shall make the proposed  
11 plan or amendment available for public review and comment for at  
12 least 30 days;

13 (b) Reviewing annual reports submitted under section 10 of this  
14 act within 90 days of submission to ensure compliance with that  
15 section;

16 (c)(i) Maintaining a website that lists producers and their  
17 brands that are participating in an approved plan, and that makes  
18 available to the public each plan, plan amendment, and annual report  
19 received by the department under this chapter;

20 (ii) Upon the date the first plan is approved, the department  
21 must post on its website a list of producers and their brands for  
22 which the department has approved a plan. The department must update  
23 the list of producers and brands participating under an approved  
24 program plan based on information provided to the department from  
25 battery stewardship organizations; and

26 (d) Providing technical assistance to producers and retailers  
27 related to the requirements of this chapter and issuing orders or  
28 imposing civil penalties authorized under section 12 of this act  
29 where the technical assistance efforts do not lead to compliance by a  
30 producer or retailer.

31 (3) Beginning January 1, 2032, and every five years thereafter,  
32 the department may after consultation with battery stewardship  
33 organizations and through rules adopted by the department increase  
34 the minimum recycling efficiency rates established in section 6 of  
35 this act based on the most economically and technically feasible  
36 processes and methodology available.

37 NEW SECTION. **Sec. 12.** PENALTIES AND CIVIL ACTION PROVISIONS.

38 (1)(a) A battery stewardship organization implementing an approved  
39 plan may bring a civil action or actions to recover costs, damages,

1 and fees, as specified in this section, from a producer who sells or  
2 otherwise makes available in Washington covered batteries, battery-  
3 containing products, or large format batteries not included in an  
4 approved plan in violation of the requirements of this chapter. An  
5 action under this section may be brought against one or more  
6 defendants. An action may only be brought against a defendant  
7 producer when the stewardship program incurs costs in Washington,  
8 including reasonable incremental administrative and program  
9 promotional costs, in excess of \$1,000 to collect, transport, and  
10 recycle or otherwise dispose of the covered batteries, battery-  
11 containing products, or large format batteries of a nonparticipating  
12 producer.

13 (b) A battery stewardship organization implementing an approved  
14 stewardship plan may bring a civil action against another battery  
15 stewardship organization that underperforms on its battery collection  
16 obligations under this chapter by failing to collect and provide for  
17 the end-of-life management of batteries in an amount roughly  
18 equivalent to costs imposed on the plaintiff battery stewardship  
19 organization by virtue of the failures of the defendants and legal  
20 fees and expenses.

21 (c) The remedies provided in this subsection are in addition to  
22 the enforcement authority of the department and do not limit and are  
23 not limited by a decision by the department to impose a civil penalty  
24 or issue an order under subsection (2) of this section. The  
25 department is not required to audit, participate in, or provide  
26 assistance to a battery stewardship organization pursuing a civil  
27 action authorized under this subsection.

28 (2) (a) The department may administratively impose a civil penalty  
29 on a person who violates this chapter in an amount of up to \$1,000  
30 per violation per day.

31 (b) The department may administratively impose a civil penalty of  
32 up to \$10,000 per violation per day on a person for repeated  
33 violations of this chapter or failure to comply with an order issued  
34 under (c) of this subsection.

35 (c) Whenever on the basis of any information the department  
36 determines that a person has violated or is in violation of this  
37 chapter, the department may issue an order requiring compliance. A  
38 person who fails to take corrective action as specified in a  
39 compliance order is liable for a civil penalty as provided in (b) of

1 this subsection, without receiving a written warning prescribed in  
2 (e) of this subsection.

3 (d) A person who is issued an order or incurs a penalty under  
4 this section may appeal the order or penalty to the pollution control  
5 hearings board established by chapter 43.21B RCW.

6 (e) Prior to imposing penalties under this section, the  
7 department must provide a producer, retailer, or battery stewardship  
8 organization with a written warning for the first violation by the  
9 producer, retailer, or battery stewardship organization of the  
10 requirements of this chapter. The written warning must inform a  
11 producer, retailer, or battery stewardship organization that it must  
12 participate in an approved plan or otherwise come into compliance  
13 with the requirements of this chapter within 30 days of the notice. A  
14 producer, retailer, or battery stewardship organization that violates  
15 a provision of this chapter after the initial written warning may be  
16 assessed a penalty as provided in this subsection.

17 (3) Penalties levied under subsection (2) of this section must be  
18 deposited in the responsible battery management account created in  
19 section 13 of this act.

20 NEW SECTION. **Sec. 13.** RESPONSIBLE BATTERY MANAGEMENT ACCOUNT.  
21 The responsible battery management account is created in the custody  
22 of the state treasurer. All receipts from activities undertaken  
23 consistent with chapter 70A.--- RCW (the new chapter created in  
24 section 22 of this act) must be deposited in the account. Only the  
25 director of the department or the director's designee may authorize  
26 expenditures from the account. The account is subject to allotment  
27 procedures under chapter 43.88 RCW, but an appropriation is not  
28 required for expenditures. Moneys in the account may be used solely  
29 by the department for administering, implementing, and enforcing the  
30 requirements of this chapter. Funds in the account may not be  
31 diverted for any purpose or activity other than those specified in  
32 this section.

33 NEW SECTION. **Sec. 14.** MARKING REQUIREMENTS FOR BATTERIES. (1)  
34 Beginning January 1, 2028, a producer or retailer may only sell,  
35 distribute, or offer for sale in or into Washington a large format  
36 battery, covered battery, or battery-containing product that contains  
37 a battery that is designed or intended to be easily removable from  
38 the product, if the battery is:

1 (a) Marked with an identification of the producer of the battery,  
2 unless the battery is less than one-half inch in diameter or does not  
3 contain a surface whose length exceeds one-half inch; and

4 (b) Beginning January 1, 2030, marked with proper labeling to  
5 ensure proper collection and recycling, by identifying the chemistry  
6 of the battery and including an indication that the battery should  
7 not be disposed of as household waste.

8 (2) A producer shall certify to its customers that the  
9 requirements of this section have been met, as provided in section 4  
10 of this act.

11 (3) The department may amend, by rule, the requirements of  
12 subsection (1) of this section to maintain consistency with the  
13 labeling requirements or voluntary standards for batteries  
14 established in federal law.

15 NEW SECTION. **Sec. 15.** REQUIREMENT TO USE BATTERY COLLECTION  
16 PROGRAMS. Effective July 1, 2027, for portable batteries and July 1,  
17 2029, for medium format batteries, or the first date on which an  
18 approved plan begins to be implemented under this chapter by a  
19 battery stewardship organization, whichever comes first:

20 (1) All persons, residents, businesses, and government,  
21 commercial, industrial, and retail facilities, and office buildings  
22 must dispose of unwanted covered batteries through the collection  
23 locations established by or included in the programs created by this  
24 chapter, except commercial, industrial, or government facilities and  
25 programs that utilize other responsible battery management  
26 arrangements that manage batteries in ways substantially similar to  
27 what this chapter requires of battery stewardship organizations.

28 (2) A person may not place covered batteries in waste containers  
29 for disposal at incinerators, waste to energy facilities, or  
30 landfills.

31 (3) A person may not place covered batteries in or on a container  
32 for mixed recyclables unless there is a separate location or  
33 compartment for the covered battery that complies with local  
34 government collection standards or guidelines.

35 (4) An owner or operator of a solid waste facility may not be  
36 found in violation of this section if the facility has posted in a  
37 conspicuous location a sign stating that covered batteries must be  
38 managed through collection locations established by a battery  
39 stewardship organization and are not accepted for disposal.



1 (5) A solid waste collector may not be found in violation of this  
2 section for a covered battery placed in a disposal container by the  
3 generator of the covered battery.

4 NEW SECTION. **Sec. 16.** DEPARTMENT ASSESSMENT OF LARGE FORMAT  
5 BATTERIES, MEDICAL DEVICES, AND BATTERY-CONTAINING PRODUCTS AND THEIR  
6 BATTERIES. (1) By July 1, 2027, the department must complete an  
7 assessment of the opportunities and challenges associated with the  
8 end-of-life management of batteries that are not covered batteries,  
9 including:

10 (a) Large format batteries;

11 (b) Batteries contained in medical devices, as specified in Title  
12 21 U.S.C. Sec. 360c as it existed as of the effective date of this  
13 section; and

14 (c) Batteries not intended or designed to be easily removed by a  
15 customer that are contained in battery-containing products, including  
16 medical devices, and in covered electronic products that are not  
17 managed under an approved plan implemented under chapter 70A.500 RCW.

18 (2) The department must consult with the department of commerce  
19 and interested stakeholders in completing the assessment, including  
20 consultation with overburdened communities and vulnerable populations  
21 identified by the department under chapter 70A.02 RCW. The assessment  
22 must identify any needed adjustments to the stewardship program  
23 requirements established in this chapter that are necessary to  
24 maximize public health, safety, and environmental benefits, such as  
25 battery reuse.

26 (3) The assessment must consider:

27 (a) The different categories and uses of batteries and battery-  
28 containing products listed in subsection (1) of this section;

29 (b) The current economic value and reuse or recycling potential  
30 of large format batteries or large format battery components and a  
31 summary of studies examining the environmental and equity  
32 implications of displacing demand for new rare earth materials,  
33 critical materials, and other conflict materials through the reuse  
34 and recycling of batteries;

35 (c) The current methods by which unwanted batteries and battery-  
36 containing products listed in subsection (1) of this section are  
37 managed in Washington and nearby states and provinces;

38 (d) Challenges posed by the potential collection, management, and  
39 transport of batteries and battery-containing products listed in

1 subsection (1) of this section, including challenges associated with  
2 removing batteries that were not intended or designed to be easily  
3 removable from products, other than by the manufacturer; and

4 (e) Which criteria of this chapter should apply to batteries and  
5 battery-containing products listed in subsection (1) of this section  
6 in a manner that is identical or analogous to the requirements  
7 applicable to covered batteries.

8 (4) By October 1, 2027, the department must submit a report to  
9 the appropriate committees of the legislature containing the findings  
10 of the assessment required in this section.

11 NEW SECTION. **Sec. 17.** DEPARTMENT OF ECOLOGY RULE MAKING TO  
12 REQUIRE THE ESTABLISHMENT OF STEWARDSHIP PROGRAM PARTICIPATION  
13 REQUIREMENTS FOR LARGE FORMAT BATTERIES. (1) By January 1, 2030, the  
14 department may, but is not required to, adopt rules that require  
15 producers of large format batteries, battery-containing products,  
16 batteries in medical devices, and products with embedded batteries to  
17 participate in a stewardship program that achieves environmentally  
18 positive outcomes similar to those achieved by a battery stewardship  
19 program for medium format and portable batteries. As part of this  
20 rule, the department may apply some or all of the provisions of  
21 section 15 of this act to large format batteries.

22 (2) Any rules adopted by the department under this section must  
23 require producers of large format batteries, battery-containing  
24 products, batteries in medical devices, and products with embedded  
25 batteries to participate in a stewardship program by no earlier than  
26 July 1, 2031.

27 (3) In adopting rules, the department must consider the results  
28 of the assessment required under section 16 of this act and involve  
29 the expertise of the department's recycling development center  
30 created in chapter 70A.240 RCW.

31 (4) The department must delay or exclude categories of batteries  
32 or battery-containing products, including categories of large format  
33 batteries that are excluded from the definition of a covered battery  
34 in section 2 of this act, based on the results of the assessment  
35 required under section 16 of this act, from stewardship program  
36 requirements, if the department determines that stewardship program  
37 requirements are infeasible for a category of batteries or battery-  
38 containing products due to:

1 (a) An existing industry or other battery management system  
2 exists for the battery or battery-containing product category covered  
3 by the assessment in section 16 of this act that currently attains a  
4 rate of collection that exceeds 95 percent of the number of that  
5 category of batteries sold in Washington each year, and the existing  
6 battery management system processes the batteries using  
7 environmentally sound management practices; or

8 (b) If delay or exclusion from program participation requirements  
9 is necessary to protect human health or the environment.

10 (5) The department must exclude from any rules adopted by the  
11 department under this section any large format batteries contained in  
12 or originating from electric vehicles if, by July 1, 2030, electric  
13 vehicle batteries are managed under state law in a manner that  
14 achieves similar outcomes to the program created in this chapter.

15 (6) In addition to the exemptions established in subsections (4)  
16 and (5) of this section, the department may exclude producers from  
17 some or all of the stewardship program requirements under the rules  
18 adopted by the department, based on other factors determined by the  
19 department.

20 NEW SECTION. **Sec. 18.** ANTITRUST. Producers or battery  
21 stewardship organizations acting on behalf of producers that prepare,  
22 submit, and implement a battery stewardship program plan pursuant to  
23 this chapter and who are thereby subject to regulation by the  
24 department are granted immunity from state laws relating to  
25 antitrust, restraint of trade, unfair trade practices, and other  
26 regulation of trade and commerce, for the limited purpose of  
27 planning, reporting, and operating a battery stewardship program,  
28 including:

29 (1) The creation, implementation, or management of a battery  
30 stewardship organization and any battery stewardship plan regardless  
31 of whether it is submitted, denied, or approved;

32 (2) The determination of the cost and structure of a battery  
33 stewardship plan; and

34 (3) The types or quantities of batteries being recycled or  
35 otherwise managed pursuant to this chapter.

36 **Sec. 19.** RCW 43.21B.110 and 2022 c 180 s 812 are each amended to  
37 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, 76.09.170, 77.55.440, 78.44.250, 88.46.090,  
12 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102  
13 and chapter 70A.--- RCW (the new chapter created in section 22 of  
14 this act).

15 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,  
16 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070,  
17 70A.245.020, 70A.65.200, 86.16.020, 88.46.070, 90.14.130, 90.46.250,  
18 90.48.120, and 90.56.330 and chapter 70A.--- RCW (the new chapter  
19 created in section 22 of this act).

20 (c) Except as provided in RCW 90.03.210(2), the issuance,  
21 modification, or termination of any permit, certificate, or license  
22 by the department or any air authority in the exercise of its  
23 jurisdiction, including the issuance or termination of a waste  
24 disposal permit, the denial of an application for a waste disposal  
25 permit, the modification of the conditions or the terms of a waste  
26 disposal permit, or a decision to approve or deny an application for  
27 a solid waste permit exemption under RCW 70A.205.260.

28 (d) Decisions of local health departments regarding the grant or  
29 denial of solid waste permits pursuant to chapter 70A.205 RCW.

30 (e) Decisions of local health departments regarding the issuance  
31 and enforcement of permits to use or dispose of biosolids under RCW  
32 70A.226.090.

33 (f) Decisions of the department regarding waste-derived  
34 fertilizer or micronutrient fertilizer under RCW 15.54.820, and  
35 decisions of the department regarding waste-derived soil amendments  
36 under RCW 70A.205.145.

37 (g) Decisions of local conservation districts related to the  
38 denial of approval or denial of certification of a dairy nutrient  
39 management plan; conditions contained in a plan; application of any  
40 dairy nutrient management practices, standards, methods, and

1 technologies to a particular dairy farm; and failure to adhere to the  
2 plan review and approval timelines in RCW 90.64.026.

3 (h) Any other decision by the department or an air authority  
4 which pursuant to law must be decided as an adjudicative proceeding  
5 under chapter 34.05 RCW.

6 (i) Decisions of the department of natural resources, the  
7 department of fish and wildlife, and the department that are  
8 reviewable under chapter 76.09 RCW, and the department of natural  
9 resources' appeals of county, city, or town objections under RCW  
10 76.09.050(7).

11 (j) Forest health hazard orders issued by the commissioner of  
12 public lands under RCW 76.06.180.

13 (k) Decisions of the department of fish and wildlife to issue,  
14 deny, condition, or modify a hydraulic project approval permit under  
15 chapter 77.55 RCW, to issue a stop work order, to issue a notice to  
16 comply, to issue a civil penalty, or to issue a notice of intent to  
17 disapprove applications.

18 (l) Decisions of the department of natural resources that are  
19 reviewable under RCW 78.44.270.

20 (m) Decisions of an authorized public entity under RCW 79.100.010  
21 to take temporary possession or custody of a vessel or to contest the  
22 amount of reimbursement owed that are reviewable by the hearings  
23 board under RCW 79.100.120.

24 (n) Decisions of the department of ecology that are appealable  
25 under RCW 70A.245.020 to set recycled minimum postconsumer content  
26 for covered products or to temporarily exclude types of covered  
27 products in plastic containers from minimum postconsumer recycled  
28 content requirements.

29 (o) Orders by the department of ecology under RCW 70A.455.080.

30 (2) The following hearings shall not be conducted by the hearings  
31 board:

32 (a) Hearings required by law to be conducted by the shorelines  
33 hearings board pursuant to chapter 90.58 RCW.

34 (b) Hearings conducted by the department pursuant to RCW  
35 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,  
36 70A.15.3110, and 90.44.180.

37 (c) Appeals of decisions by the department under RCW 90.03.110  
38 and 90.44.220.

39 (d) Hearings conducted by the department to adopt, modify, or  
40 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. 20.** RCW 43.21B.300 and 2022 c 180 s 813 are each amended to  
5 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, 88.46.090,  
9 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102  
10 and chapters 70A.355 and 70A.--- (the new chapter created in section  
11 22 of this act) RCW shall be imposed by a notice in writing, either  
12 by certified mail with return receipt requested or by personal  
13 service, to the person incurring the penalty from the department or  
14 the local air authority, describing the violation with reasonable  
15 particularity. For penalties issued by local air authorities, within  
16 30 days after the notice is received, the person incurring the  
17 penalty may apply in writing to the authority for the remission or  
18 mitigation of the penalty. Upon receipt of the application, the  
19 authority may remit or mitigate the penalty upon whatever terms the  
20 authority in its discretion deems proper. The authority may ascertain  
21 the facts regarding all such applications in such reasonable manner  
22 and under such rules as it may deem proper and shall remit or  
23 mitigate the penalty only upon a demonstration of extraordinary  
24 circumstances such as the presence of information or factors not  
25 considered in setting the original 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, which shall be credited  
19 to the recycling enhancement account created in RCW 70A.245.100, RCW  
20 70A.300.090, which shall be credited to the model toxics control  
21 operating account created in RCW 70A.305.180, RCW 70A.65.200, which  
22 shall be credited to the climate investment account created in RCW  
23 70A.65.250, RCW 90.56.330, which shall be credited to the coastal  
24 protection fund created by RCW 90.48.390, and RCW 70A.355.070, which  
25 shall be credited to the underground storage tank account created by  
26 RCW 70A.355.090.

27 NEW SECTION. **Sec. 21.** A new section is added to chapter 82.04  
28 RCW to read as follows:

29 (1) This chapter does not apply to the receipts of a battery  
30 stewardship organization formed under chapter 70A.--- RCW (the new  
31 chapter created in section 22 of this act) from charges to  
32 participating producers under a battery stewardship program as  
33 provided in section 7 of this act.

34 (2) This section is not subject to the requirements of RCW  
35 82.32.805 and 82.32.808 and is not subject to an expiration date.

36 (3) The definitions in section 2 of this act apply throughout  
37 this section unless the context clearly requires otherwise.

1        NEW SECTION.    **Sec. 22.**    CODIFICATION. Sections 1 through 18 of  
2 this act constitute a new chapter in Title 70A RCW.

3        NEW SECTION.    **Sec. 23.**    SEVERABILITY. If any provision of this  
4 act or its application to any person or circumstance is held invalid,  
5 the remainder of the act or the application of the provision to other  
6 persons or circumstances is not affected.

--- **END** ---