
SENATE BILL 5154

State of Washington

68th Legislature

2023 Regular Session

By Senators Rolfes, Nguyen, Cleveland, Frame, Hasegawa, Keiser, Kuderer, Lias, Lovelett, Nobles, Pedersen, Salomon, Stanford, Wellman, and C. Wilson

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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, 43.21B.300, 69.50.342, 69.50.345,
6 and 69.50.345; adding new sections to chapter 70A.245 RCW; adding a
7 new section to chapter to 81.04 RCW; adding a new section to chapter
8 70A.222 RCW; adding a new section to chapter 70A.350 RCW; adding a
9 new section to chapter 70A.230 RCW; adding a new section to chapter
10 70A.340 RCW; adding a new section to chapter 70A.455 RCW; adding new
11 chapters to Title 70A RCW; creating new sections; prescribing
12 penalties; providing an effective date; and providing an expiration
13 date.

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

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

18 NEW SECTION. **Sec. 101.** FINDINGS—INTENT. (1) The legislature
19 finds that, as of 2023, Washington's statewide waste recovery rate,
20 which seeks to preserve public health, safety, and welfare, and

1 conserve energy and natural resources, has been on a declining trend
2 since 2011 and that Washington is not meeting the statewide goal of
3 50 percent recycling established in 1989.

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

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

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

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

37 (6) In addition, the legislature finds extended producer
38 responsibility policies designed to cover all consumer packaging and
39 paper materials offer the potential for greater economies of scale

1 and operational efficiencies than could be achieved under a policy
2 applied only to a subset of materials.

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

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

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

23 (10) Finally, it is the intent of the legislature that, through
24 design and innovation, producers will reduce the use and climate
25 impact of consumer packaging and paper products, increase the use of
26 postconsumer recycled content, and make all packaging reusable,
27 recyclable, or compostable. The legislature intends that the policy
28 of the state is to achieve, by 2035, an overall recycling and reuse
29 rate of 90 percent for consumer packaging and paper products.

30 NEW SECTION. **Sec. 102.** DEFINITIONS. The definitions in this
31 section apply throughout this chapter unless the context clearly
32 requires otherwise.

33 (1) "Advisory council" means the advisory council created in
34 section 121 of this act.

35 (2) "Alternative recycling process" means a recycling process
36 that occurs other than through purely mechanical means.

37 (3) "Aluminum" means a covered product made of the chemical
38 element aluminum that forms a silvery white to dull gray, nonmagnetic
39 metal.

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

5 (5) "Brand owner" means a person who owns or licenses a brand or
6 who otherwise has rights to market a product under the brand, whether
7 or not the brand trademark is registered.

8 (6) "Compostable" means a product that is capable of undergoing
9 aerobic biological decomposition in a composting system, that results
10 in the material being broken down primarily into carbon dioxide,
11 water, inorganic compounds, and biomass.

12 (7) "Composting system" means a system meeting the requirements
13 of chapter 70A.205 RCW applicable to facilities that treat solid
14 waste for composting.

15 (8) "Consumer" means a person who purchases or receives a covered
16 product and is the intended end user or recipient of the covered
17 product.

18 (9) "Contamination" means:

19 (a) The presence of materials in a given collected material
20 stream that are not on the list of materials designated for
21 collection in that material stream; or

22 (b) The presence of materials in a given recycled material
23 delivered as a feedstock or commodity that are not specified or
24 accepted as a component of the feedstock or commodity.

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

27 (11) "Department" means the department of ecology.

28 (12) "Designated for collection" means the covered products that
29 are included in the material categories listed in a producer
30 responsibility organization's plan to be collected for reuse or
31 recycling.

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

36 (14) "Final disposition" means the point at which a covered
37 product:

38 (a) Becomes a reused material;

39 (b) Becomes a recycled material; or

1 (c) Is delivered to a disposal site, as defined in RCW
2 70A.205.015.

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

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

7 (17) "Government entity" means any:

8 (a) County, city, town, or other local government, including any
9 municipal corporation, quasi-municipal corporation, or special
10 purpose district, or any office, department, division, bureau, board,
11 commission, or agency thereof, or other local public agency;

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

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

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

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

22 (a) Plastic beverage containers;

23 (b) Rigid plastic, excluding plastic beverage containers;

24 (c) Flexible plastic;

25 (d) Paper;

26 (e) Aluminum;

27 (f) Steel; and

28 (g) Glass.

29 (19) "Overburdened communities" means the overburdened
30 communities identified and prioritized by the department under RCW
31 70A.02.050(1)(a).

32 (20)(a) "Packaging" means a material, substance, or object that
33 is:

34 (i) Used to protect, contain, transport, or serve a product;

35 (ii) Sold or supplied to consumers expressly for the purpose of
36 protecting, containing, transporting, or serving products;

37 (iii) Attached to a product or its container for the purpose of
38 marketing or communicating information about the product;

39 (iv) Supplied at the point of sale to facilitate the delivery of
40 the product; or

1 (v) Supplied to or purchased by consumers expressly for the
2 purpose of facilitating food or beverage consumption that is
3 ordinarily discarded by consumers after a single use or short-term
4 use, whether or not it could be reused.

5 (b) "Packaging" does not include:

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

11 (ii) Materials used to package pesticide products regulated by
12 the federal insecticide, fungicide, and rodenticide act, 7 U.S.C.
13 Sec. 136 et seq. that are in direct contact with the regulated
14 product. This exemption does not include products regulated by the
15 United States food and drug administration;

16 (iii) Products excluded temporarily under section 129 of this
17 act; and

18 (iv) Qualifying beverage containers subject to the requirements
19 of chapter 70A.--- RCW (the new chapter created in section 603 of
20 this act), upon the receipt by the department of a written notice
21 under section 302 of this act regarding the designation of a
22 distributor responsibility organization to implement a deposit return
23 system under chapter 70A.--- RCW (the new chapter created in section
24 603 of this act).

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

29 (22) "Paper product" means paper sold or supplied including, but
30 not limited to, flyers, brochures, booklets, catalogs, newspapers,
31 magazines, copy paper, printing paper, and all other paper materials
32 except for: (a) Bound books; (b) conservation grade and archival
33 grade paper; and (c) paper products that, by any common and
34 foreseeable use, could reasonably be anticipated to become unsafe or
35 unsanitary to handle.

36 (23) "Plan" means description of the approach and activities
37 developed by a producer responsibility organization to fulfill the
38 requirements and to carry out the responsibilities of producers under
39 this chapter.

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

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

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

8 (A) 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 packaged product;

12 (B) If the covered product is sold under the brand of a retail
13 establishment, the producer is the retail establishment;

14 (C) 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; or

20 (D) If there is no person described in (a)(i)(A), (B), or (C) of
21 this subsection within the United States, the producer of the
22 packaging is the person who imports the packaged product into the
23 United States for use in a commercial enterprise that sells, offers
24 for sale, or distributes the product in this state.

25 (ii) For products sold or distributed in packaging in or into
26 this state via remote sale or distribution:

27 (A) The producer of packaging used to directly protect or contain
28 the product is the same as the producer for purposes of (a)(i) of
29 this subsection;

30 (B) The producer of packaging used to ship the product to a
31 consumer is the person that packages and ships the product to the
32 consumer.

33 (iii) For all other packaging that is a covered product, the
34 producer of the packaging is the person that first distributes the
35 packaged product in or into this state.

36 (iv) For paper products that are magazines, newspapers, catalogs,
37 telephone directories, or similar publications, the producer is the
38 publisher.

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

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

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

9 (C) If there is no person described in (a) (v) (A) or (B) of this
10 subsection within the United States, the producer of the paper
11 product is the person that imports the paper product into the United
12 States for use in a commercial enterprise that sells, offers for
13 sale, or distributes the paper product in this state.

14 (b) "Producer" does not include:

15 (i) Government agencies, municipalities, or other political
16 subdivisions of the state;

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

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

21 (A) In Washington state less than one ton of covered products;
22 and

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

25 (26) "Producer responsibility organization" means:

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

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

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

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

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

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

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

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

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

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

22 (31) "Responsible end market" means a materials market in which
23 the recycling of materials and the disposal of contaminants is
24 conducted in a way that:

25 (a) Minimizes impacts to the environment; and

26 (b) Minimizes risks to public health and worker health and
27 safety.

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

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

37 (34) "Reusable" means:

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

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

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

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

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

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

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

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

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

20 (35) "Reused material" means material that is collected after use
21 and reused for its original or similar purpose or function.

22 (36) "Rigid plastic" means any covered product made of polymers
23 that is rigid or semirigid in form, including foams.

24 (37) "Socially just management" means practices that:

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

28 (b) Prevent or, if not preventable, minimize environmental harms
29 or risks; and

30 (c) Prevent or, if not preventable, minimize and mitigate impacts
31 to overburdened communities or vulnerable populations identified by
32 the department under chapter 70A.02 RCW.

33 (38) "Steel" means any covered product made of a ferrous metal
34 substance.

35 (39) "Vulnerable populations" has the same meaning as defined in
36 RCW 70A.02.010.

37 NEW SECTION. **Sec. 103.** PRODUCER RESPONSIBILITY ORGANIZATION
38 DUTIES. (1)(a) Beginning January 15, 2024, each producer that offers
39 for sale, sells, or distributes in or into Washington a covered

1 product must join a producer responsibility organization that is
2 registered with the department or register with the department as a
3 producer responsibility organization. A producer that has not joined
4 a producer responsibility organization may not sell or supply covered
5 products in or into Washington.

6 (b) A person who would be determined to be the producer of a
7 covered product, based on the definition of "producer" as defined in
8 section 102 of this act, is not required to join a producer
9 responsibility organization for that covered product if another
10 person has joined a producer responsibility organization and
11 registered as the producer responsible for that covered product under
12 this chapter.

13 (2) A producer responsibility organization that meets the
14 definition under section 102 of this act that implements or proposes
15 to implement a plan under this chapter may not include on its board
16 of directors, or otherwise be governed by, representatives or
17 affiliates of any public or private entities that submit bids to
18 perform work for the producer responsibility organization or that
19 contract with the producer responsibility organization.

20 (3) By January 15, 2024, and each January 15th thereafter, each
21 producer, through a submission by a producer responsibility
22 organization, must register with the department. A registration
23 submission by a producer responsibility organization must include the
24 following:

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

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

32 (b) Until a producer responsibility organization begins to submit
33 annual reports, as specified under section 120 or 210 of this act,
34 the following data for the prior calendar year:

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

37 (ii) A description of how the producer responsibility
38 organization has distinguished and apportioned the quantities of
39 packaging and paper products sold or supplied to consumers that are
40 considered covered products under this chapter, from quantities of

1 packaging and paper products sold or supplied for other uses that are
2 not considered covered products under this chapter. A producer
3 responsibility organization may rely on member reporting for this
4 description. The weight of any covered products that are reusable or
5 compostable must each be reported separately from the weight of other
6 types of covered products; and

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

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

15 (4) By June 30, 2024, and every June 30th thereafter, every
16 registered producer responsibility organization must submit an annual
17 payment for the following fiscal year, as determined by the
18 department in section 104 of this act, to fund the:

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

22 (b) Statewide needs assessment established in section 105 of this
23 act; and

24 (c) Support and facilitation of the advisory council created in
25 section 121 of this act.

26 (5) Beginning July 1, 2026, or within six months of the first
27 adoption of rules relating to this chapter, whichever is later, every
28 registered producer responsibility organization must submit a plan
29 meeting the requirements of section 107 of this act to the department
30 for approval consistent with the requirements of this chapter.

31 (a) A producer responsibility organization registered with the
32 department as of January 15, 2026, must:

33 (i) Implement its plan as approved by the department by July 1,
34 2027, or within six months of plan approval, whichever is later;

35 (ii) Submit the annual postconsumer recycled content report to
36 the department in April for the prior calendar year required in
37 section 210 of this act; and

38 (iii) Submit an annual report for the prior calendar year to the
39 department consistent with section 120 of this act by July 1, 2028,
40 and each July 1st thereafter.

1 (b) A producer responsibility organization registering for the
2 first time with the department after January 15, 2026, must:

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

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

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

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

13 (v) Submit the annual postconsumer recycled content report for
14 the prior calendar year required in section 210 of this act; and

15 (vi) Submit an annual report for the prior calendar year to the
16 department consistent with section 120 of this act by July 1st,
17 beginning the first year after plan implementation.

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

21 NEW SECTION. **Sec. 104.** DEPARTMENT'S DUTIES. (1) The department
22 must implement, administer, and enforce this chapter. The
23 department's implementation, administration, and enforcement duties
24 under this chapter, including the requirements of this section, are
25 supplemented by the provisions of chapter 70A.--- RCW (the new
26 chapter created in section 602 of this act).

27 (2)(a) By April 1, 2024, and every April 1st thereafter, the
28 department must:

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

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

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

1 (B) Support and facilitation of the advisory council created in
2 section 121 of this act;

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

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

11 (v) Send notice to producer responsibility organizations of fee
12 amounts due consistent with either the general order issued under
13 (a)(iii) of this subsection or rules adopted under (a)(iv) of this
14 subsection.

15 (b) The department must:

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

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

24 (3) The department must review the performance rates proposed by
25 producer responsibility organizations as required in section 111 of
26 this act and which must be achieved by the ninth calendar year from
27 the effective date of this section. The department must:

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

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

33 (c) Make a determination as to whether or not to approve proposed
34 performance rates and notify the producer responsibility organization
35 of the:

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

39 (ii) Reasons for not approving a submission of proposed
40 performance rates. The producer responsibility organization must

1 submit new or revised proposed performance rates within 30 days after
2 receipt of the letter of disapproval.

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

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

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

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

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

17 (B) Reasons for not approving a plan. The producer responsibility
18 organization must submit a new or revised plan within 60 days after
19 receipt of the letter of disapproval. In the event that a new or
20 revised plan submitted by a producer responsibility organization does
21 not sufficiently meet the requirements of this chapter, including any
22 deficiencies identified in the initial letter of disapproval, the
23 department may:

24 (I) Use the enforcement powers specified in section 124 of this
25 act; or

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

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

33 (5) The department must review annual reports submitted by
34 producer responsibility organizations as required in section 120 of
35 this act and under chapter 70A.--- RCW (the new chapter created in
36 section 602 of this act). The department must:

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

1 (b) Review within 120 days of receipt of a complete annual
2 report;

3 (c) Make a determination as to whether or not an annual report
4 meets the requirements of section 120 of this act and notify the
5 producer responsibility organization of the:

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

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

10 (d) Notify a producer responsibility organization if the annual
11 report demonstrates that the program and activities to implement the
12 plan fail to achieve the performance rates approved by the department
13 or otherwise fail to achieve significant requirements under this
14 chapter.

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

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

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

23 (b) (i) Are home to producers that supply, or have the potential
24 to supply, significant quantities of covered products to Washington
25 markets; or

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

28 (8) The department may by rule require producer responsibility
29 organizations to fund activities to make convenient collection
30 services available for recycling of covered products designated for
31 collection from locations or entities determined to be significant
32 sources of covered product waste and that are additional to those
33 locations identified under section 113 of this act. These locations
34 or entities may include, but are not limited to, public places and
35 official gatherings. Rules adopted under this subsection apply to
36 producer responsibility organizations no earlier than January 1,
37 2029, and may be updated no more frequently than every five years.

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

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

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

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

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

12 (b) Funded through payments or reimbursements collected from
13 producer responsibility organizations.

14 (2)(a) The performance rates study must be completed by April 1,
15 2024, and must:

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

18 (ii) Review the performance rates set and achieved in
19 jurisdictions with producer responsibility programs for packaging or
20 similar programs and evaluate whether those rates are applicable in
21 the state;

22 (iii) Recommend performance rates, including:

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

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

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

29 (D) If a distributor responsibility organization under chapter
30 70A.--- RCW (the new chapter created in section 603 of this act) has
31 notified the department of its intent to implement a deposit return
32 system at least six months prior to the date of the completion of a
33 new or updated performance rates study under this section, alternate
34 rates as described under (a)(iii) (A) through (C) of this subsection
35 that exclude qualifying beverage containers that are to be managed
36 under the deposit return system.

37 (b) Recommendations under (a) of this subsection must consider
38 the feasibility of achieving recommended rates based on current rates
39 achieved in the state, rates achieved in other jurisdictions with

1 similar programs, and additional relevant data. The recommended
2 performance rates must be designed to be achieved for covered
3 products statewide by 2032.

4 (c) The advisory council and any producer responsibility
5 organization that is registered with the department by January 15,
6 2024, must have the opportunity to review and comment on a draft
7 performance rates study prior to its completion.

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

11 (3) The statewide needs assessment must be completed by July 1,
12 2025, and must be consistent with the following requirements:

13 (a) The final scope of the statewide needs assessment must be
14 determined after considering comments and recommendations from the
15 advisory council established in section 121 of this act, from the
16 utilities and transportation commission, and from any producer
17 responsibility organization that is registered with the department by
18 January 15, 2024; and

19 (b) The utilities and transportation commission, the advisory
20 council created in section 121 of this act, and registered producer
21 responsibility organizations must have the opportunity to review and
22 comment on the draft statewide needs assessment prior to its
23 completion.

24 (4) The statewide needs assessment must be:

25 (a) Informed by the findings and recommendations of the
26 performance rates study established in this section and the rates
27 submitted by producer responsibility organizations and approved by
28 the department under section 111 of this act; and

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

31 (5) The statewide needs assessment must:

32 (a) Evaluate the capacity, costs, gaps, and needs for the
33 following factors:

34 (i) Availability and types of recycling services for covered
35 products relative to the convenience standards specified in section
36 113 of this act and to additional potential service methods
37 recommended by producer responsibility organizations during the study
38 scoping process;

39 (ii) Education and outreach activities relative to the standards
40 specified in section 119 of this act;

1 (iii) Availability and performance of collection, transport, and
2 processing capacity and infrastructure relative to the management
3 standards specified in section 110 of this act and the approved
4 performance rates submitted by producer responsibility organizations,
5 including consideration of material quality and contamination;

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

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

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

15 (b) Compile information related to actual costs incurred by
16 government entities for curbside collection services, drop-off
17 collection services, and other information relevant to the funding
18 requirements for producer responsibility organizations in accordance
19 with section 112 of this act, including costs for various service
20 methods recommended by producer responsibility organizations during
21 the study scoping process;

22 (c) Identify cost factors and other variables to be considered in
23 the development of base cost formulas for establishing per unit
24 reimbursement rates to government entities for curbside collection
25 services delivered in accordance with this chapter. Cost factors and
26 variables to be considered in the base cost formulas include:

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

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

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

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

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

36 (vi) Cost increases over time; and

37 (vii) Any other factors as determined to be necessary by the
38 department, with input from producer responsibility organizations,
39 the advisory council, and the utilities and transportation
40 commission;

1 (d) Identify cost factors and other variables to be considered in
2 the development of reimbursement rates to government entities for any
3 services other than curbside collection that may be included in
4 producer responsibility organization plans to be carried out by
5 government entities;

6 (e) Identify issues to be considered in the development of a
7 service agreement template outlining terms and conditions for
8 reimbursement to government entities for services delivered in
9 accordance with the requirements of this chapter;

10 (f) Compile relevant information to be considered in the
11 development of criteria by the department to determine whether a
12 covered product is recyclable, reusable, or compostable, consistent
13 with section 104 of this act. The relevant information to be compiled
14 may include whether covered product materials are:

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

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

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

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

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

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

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

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

35 (D) Identification of activities that disproportionately impact
36 any community and in particular overburdened communities and
37 vulnerable populations;

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

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

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

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

21 (6)(a) In consultation with the advisory council, the utilities
22 and transportation commission, and registered producer responsibility
23 organizations, the department may update the statewide needs
24 assessment to inform the development of producer responsibility
25 organization plans, including updates to base cost formulas to be
26 used for establishing reimbursement rates to government entities for
27 services delivered in accordance with the requirements of this
28 chapter.

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

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

37 (i) Analyzing market conditions and opportunities in the state's
38 recycling industry for meeting the minimum postconsumer recycled
39 content requirements for covered products identified in chapter
40 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 NEW SECTION. **Sec. 106.** PLAN PARTICIPATION OBLIGATION—
5 STAKEHOLDER CONSULTATION FOR PLAN. (1) Each producer of covered
6 products must participate in, implement, and fund a producer
7 responsibility organization plan approved by the department,
8 consistent with the timelines established in sections 103 and 108 of
9 this act, and in accordance with the funding requirements established
10 in section 112 of this act.

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

17 (3) Prior to submitting a new, updated, or revised plan to the
18 department, a producer responsibility organization must conduct a
19 consultation process to directly and actively involve stakeholders in
20 development of key plan elements established in section 107 of this
21 act. The producer responsibility organization, through the
22 consultation process, must solicit and respond to input and
23 recommendations from the advisory council established in section 121
24 of this act, the utilities and transportation commission, and other
25 stakeholders. The consultation process required in advance of the
26 submission of a plan to the department is in addition to the
27 department-led public comment process specified in section 104(4) of
28 this act. At a minimum, the consultation process must include:

29 (a) Quarterly meetings open to the public with the advisory
30 council subject to the requirements of chapter 42.30 RCW throughout
31 the plan development process to discuss and review key plan elements;

32 (b) Consultation on the base cost formulas to be used for
33 calculating per unit reimbursement rates to government entities for
34 curbside collection services;

35 (c) Consultation on the reimbursement rates to be used for any
36 services other than curbside collection that are to be carried out by
37 government entities and that may be included in producer
38 responsibility organization plans;

1 (d) Consultation on the service agreement template and any other
2 forms, contracts, or documents outlining the terms and conditions for
3 reimbursement to government entities for services delivered in
4 accordance with the requirements of this chapter;

5 (e) Prudency review by the utilities and transportation
6 commission of base cost formulas proposed to be used for calculating
7 reimbursement rates for government entities, as described in section
8 115 of this act. For the purposes of this chapter, a prudency review
9 must include the following:

10 (i) Before base cost formulas are submitted to the department as
11 part of a producer responsibility organization plan, the utilities
12 and transportation commission must conduct a prudency review;

13 (ii) Within 45 days after receiving base cost formulas from a
14 producer responsibility organization, the utilities and
15 transportation commission must review the formulas and shall advise
16 the producer responsibility organization and the advisory council on
17 the prudency of the reimbursement rates to be paid by a producer
18 responsibility organization to government entities for costs incurred
19 in delivery of services in accordance with the requirements of this
20 chapter;

21 (f) Opportunities for all stakeholders, including the advisory
22 council, the utilities and transportation commission, and members of
23 the public to provide comment on the plan for no less than 30 days
24 prior to its submission to the department;

25 (g) Presentations in various formats and languages as necessary
26 for soliciting meaningful input on the plan and receiving comments
27 including workshops, surveys, webinars, and one-on-one meetings; and

28 (h) Documentation of all comments received from the advisory
29 council and other stakeholders, and summary of responses provided by
30 the producer responsibility organization for purposes of a
31 stakeholder consultation report to be included with the submission of
32 a plan to the department. The stakeholder consultation report must
33 also describe each forum in which comments or input was received and
34 how it was addressed in the plan.

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

37 (1) Identification of the governing board members of the producer
38 responsibility organization;

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

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

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

10 (5) How the producer responsibility organization will encourage
11 and incentivize redesign of covered products to be reusable,
12 recyclable, or compostable, including a description of any
13 application of the authority for the producer responsibility
14 organization to establish postconsumer recycled content requirements
15 under section 213 of this act;

16 (6) How the producer responsibility organization will use and
17 interact with recycling programs and infrastructure that predate the
18 implementation of the plan;

19 (7) How the producer responsibility organization will fund reuse
20 and recycling infrastructure and market development in Washington
21 state as described in section 118 of this act;

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

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

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

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

30 (ii) Through alternate collection; and

31 (iii) Through public place collection;

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

38 (10)(a) A list and description of any covered products that are
39 compostable and the collection systems and processing infrastructure

1 and other activities that will be used to ensure responsible
2 management of compostable covered products;

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

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

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

12 (i) Service provider information, including whether the service
13 provider is a government entity, a private service provider under
14 contract with a government entity, or a private service provider
15 regulated by the utilities and transportation commission; and

16 (ii) Service frequency, schedule, collection methods, types of
17 covered products included, and other pertinent service details,
18 including whether any changes are anticipated as part of plan
19 implementation;

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

24 (c) The types of alternate collection used other than permanent
25 collection facilities, including detailed descriptions of the
26 collection methods, any physical infrastructure used, covered
27 products included, and whether any changes are anticipated as part of
28 plan implementation; and

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

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

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

36 (14) Activities to be undertaken to implement the education and
37 outreach component as required under section 119 of this act;

38 (15) Activities to facilitate recycling of covered products back
39 into covered products and encourage development of circular economic
40 activity in the state and region. The producer responsibility

1 organization shall provide a description of how the producers would
2 propose to structure agreements to purchase recycled materials from
3 material recovery facilities or other processing facilities,
4 reclaimers, or other end markets to support producers' priority
5 access to commodities, based on fair market pricing for commodities
6 of comparable quality and considering long-term contracts and other
7 purchase arrangements;

8 (16) Activities to be undertaken to minimize the amount and cost
9 of residuals from the collection and processing of covered materials
10 designated for collection. These include residuals from materials
11 recovery facilities or similar facilities producing specification-
12 grade commodities for sale, but do not include residuals from further
13 processing of end market-ready material;

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

16 (18) A description of how plan implementation will maintain
17 responsible management practices for covered products through to
18 final disposition and ensure that any covered products collected for
19 recycling will be delivered to a responsible end market;

20 (19)(a) A description of the base cost formulas to be used to
21 calculate per unit reimbursement rates for curbside collection
22 services with similar attributes that are delivered by government
23 entities in accordance with the requirements of this chapter, whether
24 such services are provided directly or through a contracted service
25 provider. If a plan includes more than one base cost formula for
26 curbside collection services, the producer responsibility
27 organization must make clear the conditions under which each formula
28 will be applied;

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

32 (c) A description of:

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

37 (ii) How reimbursements will be distributed;

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

1 (iv) How the producer responsibility organization will work with
2 government entities and other stakeholders to achieve successful
3 implementation of the services for which the producer responsibility
4 organization provides reimbursement;

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

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

11 (20) A description of the service standards for residential
12 curbside collection services provided in areas regulated by the
13 utilities and transportation commission under the provisions of
14 chapter 81.77 RCW;

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

20 (22) A stakeholder consultation report, as described in section
21 106(3)(h) of this act;

22 (23) A process to resolve disputes for determining and paying the
23 reasonable costs that arise between a producer responsibility
24 organization and a government entity or a recycling service provider.
25 This process must be reviewed by the advisory council to ensure the
26 producer responsibility organization covers costs related to this
27 chapter and becomes effective upon plan approval by the department;

28 (24) A description of how the producer responsibility
29 organization will coordinate with other producer responsibility
30 organizations in the state, in specific terms if more than one
31 producer responsibility organization is registered with the
32 department as of the date of a plan's submission, and in general
33 terms addressing coordination priorities to ensure the smooth
34 implementation of this chapter in the event an additional plan or
35 plans become registered with the department during the period of plan
36 implementation;

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

1 (26) The contingency plan described in section 109 of this act;
2 and
3 (27) Any other information to be included in the plan as required
4 by the department by rule.

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

6 (1)(a) The initial plans due to be submitted under section 103(5) of
7 this act may address no more than three calendar years, dating from
8 the date on which the plan is due to be submitted to the department.
9 Within two years of implementation of its initial plan, a producer
10 responsibility organization must submit an updated plan for the
11 following five calendar years to address changes in the operations
12 and activities of the program.

13 (b) For plans other than those described in (a) of this
14 subsection, a producer responsibility organization must submit a plan
15 to the department that addresses five calendar years of operation,
16 dating from the date on which the plan is due to be submitted to the
17 department. A plan is valid for no more than five years.

18 (c) For all subsequent plans submitted after the initial plan, a
19 producer responsibility organization must submit to the department,
20 one year prior to the expiration of the plan, an updated plan for the
21 following five calendar years of operation to address changes in the
22 operations and activities of the program.

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

32 (e) A producer responsibility organization must carry out the
33 consultation process established in section 106 of this act prior to
34 the submission of each plan and plan update. The consultation process
35 established in section 106 of this act is not required to be carried
36 out by a producer responsibility organization that is submitting a
37 revised plan:

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

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

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

8 (b) The department may require a producer responsibility
9 organization to update its plan more frequently than every five years
10 if:

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

16 (ii) Additional producer responsibility organizations register
17 with the department or receive approval from the department to begin
18 implementing a plan; or

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

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

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

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

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

33 (d) In the event that the producer responsibility organization
34 notifies the department that it will cease to implement an approved
35 plan; or

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

38 (2) The contingency plan required in this section must be
39 submitted to the department as a component of the producer

1 responsibility organization's initial plan submitted to the
2 department under section 103(5) of this act. The department may
3 require a producer responsibility organization to update the
4 contingency plan required under this section coincident with any plan
5 update under section 108 of this act.

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

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

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

20 (3) Producer responsibility organizations implementing a plan
21 must include measures to:

22 (a) Track, verify, and publicly report that the responsible
23 management of covered products collected by the program is maintained
24 and that recycled materials are delivered to a responsible end
25 market;

26 (b) Promote and facilitate reuse of covered products designed to
27 be reused;

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

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

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

37 (4)(a) Prior to program use of any alternative recycling process
38 for conversion of postuse plastic polymers for the purpose of
39 producing recycled material to be counted toward performance rates

1 under this chapter, the producer responsibility organization must
2 seek the department's approval and submit a third-party assessment of
3 the process's environmental impacts, as described under this
4 subsection. In order for an alternative recycling process to be
5 approved, the department must determine, after considering public
6 comment and input from the advisory council, that the alternative
7 recycling process produces similar or lesser impacts than those
8 produced in recycling that uses purely mechanical means for each of
9 the following environmental impacts:

10 (i) Air and water pollution and release or creation of any
11 hazardous pollutants;

12 (ii) Energy efficiency and greenhouse gas emissions;

13 (iii) Generation of hazardous waste;

14 (iv) Environmental impacts on overburdened communities and
15 vulnerable populations;

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

18 (vi) Other environmental impacts as determined by the department
19 by rule.

20 (b) The results of the assessment under (a) of this subsection
21 must, whenever reported and communicated, provide full disclosure of
22 geographical, temporal, and technological boundaries that have been
23 selected for the assessment.

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

28 (5)(a) Material recovery facilities and other processing
29 facilities receiving covered products from government entities or
30 private service providers collected through activities undertaken in
31 accordance with this chapter must measure and report annually to the
32 department by commodity type and material category, in a form and
33 format approved by the department, on the following parameters
34 associated with covered products and qualifying beverage containers
35 subject to the provisions of chapter 70A.--- RCW (the new chapter
36 created in section 603 of this act) received and processed:

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

38 (ii) Inbound material quality and contamination;

39 (iii) Outbound material quality and contamination;

1 (iv) Outbound material tons and end markets by commodity type,
2 including whether the end markets are domestic, export to
3 organization for economic cooperation and development countries, or
4 export to facilities in other countries that meet organization for
5 economic cooperation and development operating standards;

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

8 (vi) Residuals, including residue rate, composition, and disposal
9 location;

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

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

15 (b) All data reported to the department by material recovery
16 facilities and other processing facilities under this subsection must
17 be verified by an independent third party and shared with each
18 producer responsibility organization for which the material recovery
19 facility provides a service.

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

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

34 NEW SECTION. **Sec. 111.** PERFORMANCE RATES. (1) By July 1, 2024,
35 any registered producer responsibility organization must submit to
36 the department proposed performance rates for covered products
37 reported by the producer responsibility organization as supplied into
38 the state to be achieved by the ninth calendar year from the

1 effective date of this section. In proposing rates, the producer
2 responsibility organization must:

3 (a) Consider the rates recommended in the performance rates
4 study;

5 (b) Propose, at minimum:

6 (i) An overall combined reuse and recycling rate of covered
7 products;

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

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

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

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

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

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

24 (i) An overall combined reuse and recycling rate of covered
25 products;

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

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

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

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

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

39 (d) Any plan submitted to the department prior to the ninth
40 calendar year from the effective date of this section must also

1 include performance rates to be achieved by the ninth calendar year
2 from the effective date of this section. If the rates differ from
3 those previously approved by the department as required under
4 subsection (1) of this section, the producer responsibility
5 organization must provide a justification for the proposed
6 adjustment.

7 (3) For the purposes of this chapter, the amount of recycled
8 material must be measured at the following calculation point for each
9 material category of covered products included in the plan, to be
10 counted as recycled:

11 (a) Rigid plastic material other than beverage containers that:

12 (i) Is delivered to a facility for flaking, pelletization,
13 extrusion, molding, or an approved alternative recycling process for
14 conversion of postuse plastic polymers for use in the production of
15 new products whether for the original or another purpose; or

16 (ii) Is compostable and is delivered to an organic materials
17 management facility as defined in RCW 70A.205.015 under an agreement
18 with that facility. Rigid plastic material that is compostable and
19 managed through composting must be measured and reported separately
20 from other rigid plastic material to be counted as recycled;

21 (b) Plastic beverage containers that:

22 (i) Are delivered to a facility for flaking, pelletization,
23 extrusion, molding, or an approved alternative recycling process for
24 conversion of postuse plastic polymers for use in the production of
25 new products whether for the original or another purpose; or

26 (ii) Are compostable and are delivered to an organic material
27 management facility as defined in RCW 70A.205.015 under an agreement
28 with that facility. Plastic beverage containers that are compostable
29 and managed through composting must be measured and reported
30 separately from other rigid plastic materials to be counted as
31 recycled;

32 (c) Flexible plastic material that:

33 (i) Is delivered to a facility for flaking, pelletization,
34 extrusion, molding, or an approved alternative recycling process for
35 conversion of postuse plastic polymers for use in the production of
36 new products whether for the original or another purpose; or

37 (ii) Is compostable and is delivered to an organic materials
38 management facility as defined in RCW 70A.205.015 under an agreement
39 with that facility. Flexible plastic material that is compostable and

1 managed through composting must be measured and reported separately
2 from other flexible plastic material to be counted as recycled;

3 (d) Paper material that:

4 (i) Is delivered to a pulping operation or other facility for use
5 in the production of new products whether for the original or another
6 purpose; or

7 (ii) Is compostable and is delivered to an organic materials
8 management facility as defined in RCW 70A.205.015 under an agreement
9 with that facility. Paper material that is compostable and managed
10 through composting must be measured and reported separately from
11 other paper material to be counted as recycled;

12 (e) Aluminum material that is delivered to a metal smelter or
13 furnace or other facility for use in the production of new products
14 whether for the production of aluminum containers and products;

15 (f) Steel material that is delivered to a metal smelter or
16 furnace or other facility for use in the production of new products
17 whether for the production of steel containers and products;

18 (g) Glass material that is delivered to a glass furnace or other
19 facility for the production of glass containers and products;

20 (h) For materials that are not included in the material
21 categories listed in (a) through (g) of this subsection, the
22 calculation point must be proposed and described by the producer
23 responsibility organization in its plan and annual report and is
24 subject to approval by the department in order to be included in the
25 performance rate calculation.

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

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

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

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

38 (3)(a) A producer responsibility organization must develop a
39 system to collect fees from participating producers to cover the

1 costs of plan implementation. To minimize the administrative and
2 reporting costs of the producers and the organization, the fee system
3 must include:

4 (i) A de minimis level in which no fees are charged by the
5 producer responsibility organization;

6 (ii) Additional charges applied specifically to producers of
7 postconsumer recycled content products covered by the requirements of
8 chapter 70A.--- RCW (the new chapter created in section 602 of this
9 act), in an amount roughly equivalent to fully cover the producer
10 responsibility organization's costs of implementing its duties under
11 chapter 70A.--- RCW (the new chapter created in section 602 of this
12 act), including funding the oversight of the department; and

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

14 (b) A producer responsibility organization shall allow producers
15 of covered products that are newspapers or magazines to satisfy their
16 obligations under this section by providing advertisement or
17 publication supporting the education and outreach activities required
18 under section 119 of this act in their newspapers, magazines, or on
19 their websites in lieu of program fees as long as the value of the
20 advertisement is equivalent to the estimated cost of managing the
21 covered products that are newspapers or magazines, which are to be
22 determined as described in subsection (4) of this section. The
23 producer responsibility organization may consider the in-state reach
24 of the advertising when determining the value of the advertising.

25 (4) A producer responsibility organization must base the system
26 of fees assessed to producers upon the estimated cost of managing the
27 material categories of covered products or a similar approach
28 proposed by the producer responsibility organization including, but
29 not limited to, consideration of the following factors:

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

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

35 (c) The commodity value of each material category as a recycled
36 material.

37 (5)(a) The fee system must use eco-modulation factors to
38 incentivize the use of packaging design attributes that reduce the
39 environmental impacts of covered products. Examples of activities

1 that a fee system may include to satisfy the requirement to use eco-
2 modulation factors include, but are not limited to:

3 (i) Encourage designs that facilitate and improve infrastructure
4 and systems for reuse and recycling, and that achieve reuse and
5 recycling;

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

7 (iii) Encourage designs that reduce the amount of packaging
8 material used;

9 (iv) Discourage the use of problematic or difficult to recycle
10 materials that increase system costs of managing covered products;
11 and

12 (v) Encourage other design attributes that reduce the
13 environmental impacts of covered products as demonstrated by
14 evaluations performed in accordance with standards established by the
15 department under section 104 of this act.

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

21 (c) Fees collected under this fee system must be used exclusively
22 for plan implementation and other activities required under this
23 chapter and chapter 70A.--- RCW (the new chapter created in section
24 602 of this act).

25 (6) If more than one producer responsibility organization is
26 registered within the state, each producer responsibility
27 organization must coordinate with other producer responsibility
28 organizations to provide reimbursement and ensure that government
29 entities and service providers are reimbursed for recycling services
30 as required under this chapter, and to ensure that covered products
31 are not reported as supplied or managed by more than one producer
32 responsibility organization.

33 NEW SECTION. **Sec. 113.** CONVENIENCE STANDARDS. (1) In every
34 jurisdiction in which covered products are sold or supplied to
35 consumers, a producer responsibility organization must fund
36 activities to make convenient collection services available for the
37 full list of covered products designated for collection in the plan.
38 Convenient collection services must be available to residents as
39 follows:

1 (a) Curbside collection must be provided to residents in single-
2 family and multifamily residences wherever curbside garbage
3 collection services are provided to these entities, except for
4 covered products designated for alternate collection.

5 (b) (i) In jurisdictions without curbside garbage collection, and
6 in all areas for covered products designated for alternate
7 collection, free and equitable access to permanent collection
8 facilities must be provided that are located, at minimum, at:

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

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

23 (ii) A retail establishment may choose to serve as a drop-off
24 location or as the site of a collection event, or both, through
25 mutual agreement with a producer responsibility organization, but
26 nothing in this chapter requires a retail establishment to serve as a
27 drop-off location or site of a collection event.

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

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

35 (ii) At additional locations as determined by the producer
36 responsibility organization, after considering the recommendations of
37 the statewide needs assessment in section 105 of this act and
38 stakeholder consultation in section 106 of this act. Collection in
39 additional locations is subject to mutual agreement by the producer

1 responsibility organization and the government entity or other entity
2 responsible for the public place.

3 (2) In any jurisdiction where collection of source separated
4 recyclable materials from residences is provided by a city or town
5 under the authority of RCW 35.21.120, by a county under the authority
6 of RCW 36.58.040, or by a company that holds an applicable
7 certificate under the authority of chapter 81.77 RCW, a producer
8 responsibility organization must meet its curbside collection service
9 obligation through the curbside collection service in the
10 jurisdiction as described in section 114 of this act.

11 (3) (a) A producer responsibility organization must, in its plan,
12 establish a statewide list of covered products designated for
13 collection.

14 (b) If more than one producer responsibility organization is
15 registered with the department, each producer responsibility
16 organization must coordinate with other producer responsibility
17 organizations to establish and annually update in a coordinated
18 submission to the department the statewide list of covered products
19 designated for collection.

20 (4) Every producer responsibility organization must identify in
21 its plan and on its website, in appropriate languages, maps of each
22 area where curbside and alternative collection services for covered
23 products are available, a list and map of the location of each
24 permanent collection opportunity for covered products, the types and
25 a list and map of locations of alternate collection methods used, and
26 a list and map of the locations of public place collection services
27 for covered products.

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

30 (a) Obligate a county, city, or town that utilizes its contract
31 authority under RCW 35.21.120 or 36.58.040 for collection of source
32 separated recyclable materials from residents or a city or town that
33 undertakes collection of source separated recyclable materials from
34 residents to participate in a plan implemented by a producer
35 responsibility organization;

36 (b) Restrict the authority of a city under RCW 35.21.120,
37 35.21.130, and 35.21.152; or

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

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

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

9 (c) A government entity is not restricted from including
10 additional materials in curbside or noncurbside collection that are
11 not part of the statewide list of covered products designated for
12 collection, but a producer responsibility organization is not
13 obligated to reimburse costs associated with the additional
14 materials.

15 (3) Consistent with RCW 81.77.020, where a city or town chooses
16 not to exercise its authority under chapter 35.21 RCW, or a county
17 chooses not to exercise its authority under chapter 36.58 RCW,
18 curbside collection of covered products designated for collection as
19 source separated recyclable materials from residences in areas
20 regulated by the utilities and transportation commission under the
21 provisions of chapter 81.77 RCW must be provided by a company that
22 holds an applicable certificate issued by the utilities and
23 transportation commission.

24 (4) 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 119 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 (5) 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 any other service standards established by the
2 producer responsibility organization plan under section 107 of this
3 act; and

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

6 NEW SECTION. **Sec. 117.** SERVICE PROVIDER AGREEMENTS. (1) Service
7 provider agreements between producer responsibility organizations and
8 government entities under this chapter are limited in scope to
9 authorizing the reimbursement of costs according to the reimbursement
10 rates determined according to section 115 of this act, and any other
11 services included in a producer responsibility organization plan that
12 are to be carried out by a government entity. A producer
13 responsibility organization may not make a government entity's
14 reimbursement under this chapter contingent upon the performance of
15 activities or the fulfillment of terms or conditions that are not
16 specified as a duty of government entities under this chapter or
17 required under a plan approved under this chapter.

18 (2) Except for curbside collection services provided in
19 accordance with sections 113 and 114 of this act, a producer
20 responsibility organization that enters into contractual agreements
21 with service providers to carry out producer responsibilities under
22 this act must:

23 (a) Use open, competitive, and fair procurement practices;

24 (b) Provide opportunities for women, minority, or veteran-owned
25 businesses, small businesses, and independent operators to
26 participate as service providers;

27 (c) Require that all contracted service providers:

28 (i) Meet minimum operating standards, including the requirements
29 of this chapter and chapter 70A.205 RCW;

30 (ii) Meet high labor standards, including family level wages,
31 providing benefits including health care and retirement plans or
32 contributions, and demonstrate procurement from and contracts with
33 women, minority, or veteran-owned businesses; and

34 (iii) Provide fair opportunities regardless of ethnicity, race,
35 gender, age, disability, religion, sexual orientation, or national
36 origin; and

37 (d) Require that contracted service providers maintain records
38 and provide the producer responsibility organization with verifiable
39 chain of custody documentation up to the point of final disposition,

1 reporting parameters for material recovery facilities and other
2 processing facilities under section 110 of this act, and other
3 documentation necessary to evaluate the performance relative to the
4 requirements of this chapter. The producer responsibility
5 organization must submit the records and documentation required under
6 this subsection to the department, upon request by the department.

7 (3) The department must consult with other state agencies in any
8 review of the producer responsibility organization's consistency with
9 the standards established in this section.

10 NEW SECTION. **Sec. 118.** INFRASTRUCTURE INVESTMENTS. (1) Each
11 producer responsibility organization must fund and support
12 investments in reuse and recycling infrastructure and market
13 development in Washington state as needed to achieve the convenience
14 standards specified in section 113 of this act, the management
15 standards specified in section 110 of this act, the performance rates
16 set in producer responsibility organization plans as described in
17 section 111 of this act, or to address infrastructure gaps, including
18 investments needed to enable reuse of covered products or the
19 recycling of covered products not currently recycled in the
20 residential recycling system, as identified through the statewide
21 needs assessment under section 105 of this act and through the
22 consultation process under section 106 of this act. Investments in
23 reuse and recycling infrastructure and market development may
24 include, but is not limited to:

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

28 (b) Capital expenditures for new technology, equipment, and
29 facilities.

30 (2) Reuse and recycling infrastructure investments must be
31 detailed in the annual report submitted to the department in the
32 manner specified in section 120 of this act. If a producer
33 responsibility organization did not invest in preexisting reuse and
34 recycling infrastructure within Washington state, the annual report
35 must include a statement of the reasons why no such investment was
36 made.

37 NEW SECTION. **Sec. 119.** EDUCATION AND OUTREACH. (1) Each plan
38 implemented by a producer responsibility organization under this

1 chapter must include education and outreach activities that
2 effectively reach diverse residents, are accessible, are clear, and
3 support the achievement of the performance rates set in producer
4 responsibility organization plans as described in section 111 of this
5 act. To implement the education and outreach activities described in
6 the plan, a producer responsibility organization must, at minimum:

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

13 (i) Education and engagement with residents on recycling, reuse,
14 and refill behaviors;

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

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

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

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

31 (d) Be conceptually, linguistically, and culturally accurate for
32 the communities served and tailored to effectively reach the state's
33 diverse populations, including through meaningful consultation with
34 overburdened communities and vulnerable populations;

35 (e) Establish a process for answering customer questions and
36 resolving customer concerns; and

37 (f) Evaluate the effectiveness of education and outreach efforts
38 for the purposes of making progress toward performance requirements
39 established in this chapter.

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

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

13 NEW SECTION. **Sec. 120.** ANNUAL REPORTING ON ACTIVITIES. (1)
14 Beginning July 1, 2028, and each July 1st thereafter, each producer
15 responsibility organization must submit an annual report to the
16 department for the preceding calendar year of plan implementation.
17 Each annual report must include data, descriptions, and other
18 information sufficient to allow the department to determine whether a
19 producer responsibility organization has fulfilled its obligations
20 under this chapter during the preceding calendar year, including
21 actions identified by the producer responsibility organization to be
22 undertaken as part of the plan submitted under section 107 of this
23 act, and actions to implement the requirements and other provisions
24 of this chapter including, but not limited to, sections 110 through
25 119 of this act.

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

29 (a) Identification of the governing board members of the producer
30 responsibility organization;

31 (b) The final destinations of recycled material managed by the
32 program, including:

33 (i) Names and locations of end users or reprocessors that
34 received recycled material managed by the program, by material
35 category; and

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

38 (c) An assessment of the net greenhouse gas emissions associated
39 with program operations, including both direct emissions and indirect

1 emissions with all activities, and including the avoided emissions
2 from source reduction, reuse, and recycling of covered products into
3 new products and materials; and

4 (d) The total cost of implementing the plan approved by the
5 department, as determined by an independent financial audit and
6 performed by an independent auditor, including:

7 (i) Information regarding the independently audited financial
8 statements detailing all payments received and issued by the producer
9 responsibility organization covered by the plan approved by the
10 department;

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

12 (iii) A detailed description of how the program compensates
13 government entities, private collection and transportation service
14 providers, sorting and processing facilities, and other approved
15 entities for services under chapters 70A.--- (the new chapter created
16 in section 601 of this act), 70A.--- (the new chapter created in
17 section 602 of this act), and 70A.--- RCW (the new chapter created in
18 section 603 of this act).

19 (3)(a) Prior to the submission of the annual report, all
20 nonfinancial data and information that is material to the
21 department's review of the program's compliance with the requirements
22 of this chapter must be audited annually by a third party that is a
23 nationally recognized, independent laboratory or certification body
24 that has received ISO/IEC 17065 accreditation as it existed as of
25 January 1, 2023, or a similar accreditation as determined by the
26 department.

27 (b) Annual independent auditing and verification must:

28 (i) Include documentation of the performance rate calculations;

29 (ii) Encompass the management of materials from the point of
30 collection through processing and sale of recycled materials; and

31 (iii) Determine whether all facilities involved in the
32 collection, processing, and final disposition of collected covered
33 products are operating in accordance with the requirements of this
34 chapter and responsible management of covered products.

35 NEW SECTION. **Sec. 121.** ADVISORY COUNCIL. (1) The advisory
36 council is established.

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

1 (a) Four representatives of local governments representing
2 geographic areas across the state, including urban and rural
3 communities;

4 (b) One representative of tribal or indigenous solid waste
5 services organizations;

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

8 (d) Two representatives of community-based organizations whose
9 mission is to serve the interests of overburdened communities and
10 vulnerable populations;

11 (e) Two representatives of environmental nonprofit organizations;

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

15 (g) Six representatives of the recycling industry, including
16 local governments' service providers, solid waste collection
17 companies or associations, material recovery facilities, or other
18 processing facilities;

19 (h) Three representatives of producers of covered products or
20 producer trade associations representing different types of covered
21 products. A member appointed to the council under this subsection may
22 not be a representative or a member of the board of directors of a
23 producer responsibility organization registered with the department
24 under section 103 of this act;

25 (i) Two representatives of packaging suppliers that are not
26 producers as defined under this chapter representing different
27 material categories; and

28 (j) One representative of a retail establishment.

29 (3) Advisory councilmembers must be appointed by the director of
30 the department by January 1, 2024. In appointing members, the
31 department shall:

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

35 (b) Consider recommendations for appointments from relevant
36 represented groups or associations and from individuals interested in
37 participating on the advisory council.

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

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

4 (5)(a) The advisory council shall elect one of its members to
5 serve as chairperson and another to serve as vice chairperson, for
6 the terms and with the duties and powers necessary for the
7 performance of the functions of such offices as the advisory council
8 determines. The chairperson and vice chairperson may not both be
9 members appointed under the same subsection of subsection (2)(a)
10 through (i) of this section.

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

13 (6) The advisory council shall meet at least once every three
14 months for the first three years, at times and places specified by
15 the chairperson. The advisory council may also meet at other times
16 and places, including virtually, specified by the call of the
17 chairperson or of a majority of the councilmembers, as necessary, to
18 carry out the duties of the advisory council.

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

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

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

26 (a)(i) Advise and make recommendations to the department on the
27 scope of the statewide needs assessments;

28 (ii) Advise and make recommendations to the department on the
29 amount of the additional refund value premium to be paid consistent
30 with section 309(2)(c) of this act;

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

33 (c)(i) Advise and make recommendations to any registered producer
34 responsibility organization during stakeholder consultation on plans
35 as required under section 106 of this act;

36 (ii) Advise and make recommendations to any registered
37 distributor responsibility organization during stakeholder
38 consultation on plans as required under section 315 of this act;

39 (d)(i) Review and comment on all new and updated plans submitted
40 by producer responsibility organizations to the department, including

1 making recommendations to the department on plan approvals, as part
2 of the public comment period as established under section 104 of this
3 act;

4 (ii) Review and comment on all new and updated plans submitted by
5 distributor responsibility organizations to the department, including
6 making recommendations to the department on plan approvals, as part
7 of the public comment period as established under section 307 of this
8 act;

9 (e) (i) Advise and make recommendations to any registered producer
10 responsibility organization on annual reports prior to submission as
11 established in section 120 of this act;

12 (ii) Advise and make recommendations to any registered
13 distributor responsibility organization on annual reports prior to
14 submission as established in section 311 of this act;

15 (f) (i) Review and comment on all annual reports submitted by
16 producer responsibility organizations to the department, including
17 making recommendations to the department regarding the need for any
18 plan amendments or other recommendations regarding program
19 activities;

20 (ii) Review and comment on all annual reports submitted by
21 distributor responsibility organizations to the department, including
22 making recommendations to the department regarding the need for any
23 plan amendments or other recommendations regarding program
24 activities; and

25 (g) Provide input, review, and comment on rule making developed
26 by the department under this chapter or chapter 70A.--- RCW (the new
27 chapter created in section 603 of this act).

28 (9) Advisory councilmembers that are representatives of tribes or
29 tribal and indigenous services organizations or community-based and
30 environmental nonprofit organizations must, if requested, be
31 compensated and reimbursed in accordance with RCW 43.03.050,
32 43.03.060, and 43.03.220.

33 (10) The department must include costs related to the advisory
34 council in the estimate of annual costs as established in sections
35 104 and 307 of this act, including costs for:

36 (a) Department resources, including staff time;

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

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

1 NEW SECTION. **Sec. 122.** CONFIDENTIAL INFORMATION SUBMISSION. A
2 producer responsibility organization, material recovery facility, or
3 other processing facility that submits information or records to the
4 department under this chapter may request that the information or
5 records be made available only for the confidential use of the
6 department, the director of the department, or the appropriate
7 division of the department. The director of the department must give
8 consideration to the request and if this action is not detrimental to
9 the public interest and is otherwise in accordance with the policies
10 and purposes of chapter 43.21A RCW, the director must grant the
11 request for the information to remain confidential as authorized in
12 RCW 43.21A.160.

13 NEW SECTION. **Sec. 123.** PROHIBITION ON THE USES OF FUNDS BY
14 PRODUCER RESPONSIBILITY ORGANIZATIONS. (1) A producer responsibility
15 organization may not use funds collected for purposes of implementing
16 a plan required under this chapter for cost associated with:

17 (a) The payment of an administrative penalty levied under this
18 chapter;

19 (b) Administrative appeals of orders or penalties issued under
20 this chapter;

21 (c) Litigation between the producer responsibility organization
22 and the state;

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

27 (e) Paid advertisements related to encouraging the passage,
28 defeat, or approval, or modification of legislation that is being
29 considered during an upcoming or current legislative session or was
30 considered during the previous legislative session.

31 (2) Nothing in this section limits the authority of a producer
32 responsibility organization to collect funds, such as through a
33 special assessment, for purposes other than implementing a plan
34 required under this chapter, such as for the purposes identified in
35 subsection (1) (a) through (e) of this section.

36 NEW SECTION. **Sec. 124.** ENFORCEMENT AUTHORITY. (1) The
37 department may administratively impose a civil penalty of up to
38 \$1,000 per violation per day on any person who violates this chapter

1 or on any producer responsibility organization that violates the
2 postconsumer recycled content provisions applicable to producer
3 responsibility organizations under chapter 70A.--- RCW (the new
4 chapter created in section 602 of this act) and up to \$10,000 per
5 violation per day for the second and each subsequent violation.

6 (2) Upon the department notifying a producer responsibility
7 organization that it has not met a significant requirement of this
8 chapter or chapter 70A.--- RCW (the new chapter created in section
9 602 of this act), the department may, in addition to assessing the
10 penalties provided in subsection (1) of this section, take any
11 combination of the following actions:

12 (a)(i) Issue corrective action orders to a producer or producer
13 responsibility organization;

14 (ii) Issue orders to a producer responsibility organization to
15 provide for the continued implementation of the program in the
16 absence of an approved plan;

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

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

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

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

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

32 (5) Penalties levied under this section must be deposited in the
33 responsible packaging management account created in section 128 of
34 this act.

35 NEW SECTION. **Sec. 125.** TRUTH IN LABELING. (1) Beginning January
36 1, 2027, a producer may not offer for sale, sell, or distribute in or
37 into Washington, including by means of remote sale, any covered
38 product that makes a deceptive or misleading claim about its
39 recyclability.

1 (a) A covered product that displays a chasing arrows symbol, a
2 chasing arrows symbol surrounding a resin identification code, or any
3 other symbol or statement indicating that it is recyclable is deemed
4 to be deceptive or misleading unless it is designated for collection
5 in a producer responsibility organization plan approved by the
6 department as described in section 107 of this act.

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

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

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

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

16 (2) At such time as an enforceable federal statutory or
17 regulatory standard is implemented for labeling packaging related to
18 recyclability, within 180 days the department shall review criteria
19 under this chapter with federal standards or requirements. Upon
20 completing its review, the department may adopt the federal criteria
21 in lieu of the requirements of this section.

22 (3) Beginning July 1, 2023, a city, town, or county may not enact
23 an ordinance restricting the distribution or sale of covered products
24 due to displaying a chasing arrows symbol, a chasing arrows symbol
25 surrounding a resin identification code, or any other symbol or
26 statement indicating that it is recyclable if the covered product is,
27 at the time that the claim is made:

28 (a) Designated for collection in a producer responsibility
29 organization plan approved by the department as described in section
30 107 of this act;

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

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

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

38 NEW SECTION. **Sec. 126.** PACKAGING REGISTRATION CLEARINGHOUSE—
39 PRODUCER REGISTRATION. (1) The department is authorized to

1 participate in the development and ongoing operation of a regional or
2 multistate clearinghouse for the purpose of facilitating the
3 implementation of state laws and rules on packaging and paper
4 products including, but not limited to, requirements established
5 under this chapter and in chapters 70A.222, 70A.230, 70A.245,
6 70A.340, 70A.350, 70A.455, and 70A.--- RCW (the new chapter created
7 in section 603 of this act) and other relevant laws.

8 (2) The department may direct producers to register and submit
9 any required data, annual reports, fees, and annual payments, and any
10 additional information or documentation to a clearinghouse in lieu of
11 the department.

12 NEW SECTION. **Sec. 127.** OTHER ASSISTANCE PROGRAMS. Nothing in
13 this act impacts an entity's eligibility for any state or local
14 incentive or assistance program to which they are otherwise eligible.

15 NEW SECTION. **Sec. 128.** ACCOUNT. The responsible packaging
16 management account is created in the custody of the state treasury.
17 All receipts received by the department under this chapter and
18 chapter 70A.--- RCW (the new chapter created in section 602 of this
19 act) must be deposited in the account. Only the director of the
20 department or the director's designee may authorize expenditures from
21 the account. The account is subject to the allotment procedures under
22 chapter 43.88 RCW, but an appropriation is not required for
23 expenditures. Expenditures from the account may be used by the
24 department only for implementing, administering, and enforcing the
25 requirements of this chapter and chapter 70A.--- RCW (the new chapter
26 created in section 602 of this act).

27 NEW SECTION. **Sec. 129.** PETITION FOR THE EXCLUSION OF CERTAIN
28 PRODUCTS. (1) Prior to the submission of a new or updated plan under
29 section 107 of this act, the department may review and determine for
30 the duration of the upcoming plan's period of applicability whether
31 to temporarily exclude from the requirements of this chapter, except
32 as provided in subsection (5) of this section, packaging used to
33 contain:

34 (a) A product that is regulated as a drug, medical device, or
35 dietary supplement by the federal food and drug administration under
36 the federal, food, drug, and cosmetic act (21 U.S.C. Sec. 301 et
37 seq.), as amended or any federal regulation promulgated under the

1 act, or any equipment and materials used to manufacture such
2 products;

3 (b) A product that is regulated as animal biologics, including
4 vaccines, bacterins, antisera, diagnostic kits, and other products of
5 biological origin under the federal virus-serum-toxin act, 21 U.S.C.
6 Sec. 151 et seq., as amended.

7 (2) The department's review may be initiated by the department or
8 upon a petition by a producer or producer responsibility
9 organization. The department may specify the date by which a petition
10 must be filed under subsection (1) of this section in order to be
11 considered timely for purposes of an upcoming plan implementation
12 period.

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

16 (a) The technical feasibility of including the product in the
17 program created by this chapter, and in recycling the packaging of
18 the product; and

19 (b) The progress made by the producer of the product in achieving
20 the goals of this chapter, including by reducing the amount of
21 packaging used with the product, increasing the recycled content of
22 the product packaging, and increasing the ability of the product's
23 packaging to be reused or recycled if appropriate.

24 (4) The petition process established in this section is distinct
25 from the processes pertaining to adjustments and exclusions to
26 postconsumer recycled content requirements in section 211 of this
27 act. A product that is temporarily excluded under this section
28 remains subject to postconsumer recycled content requirements
29 established in chapter 70A.--- RCW (the new chapter created in
30 section 602 of this act) unless a petition is separately granted by
31 the department for that product under section 211 of this act.

32 (5) The producer of a product that is temporarily excluded from
33 the requirements of this chapter under this section must report,
34 directly to the department in a form and manner prescribed by the
35 department, the information related to the temporarily excluded
36 product that is required to be reported to the department by producer
37 responsibility organizations under sections 103 and 120 of this act.

38 **Part Two**
39 **Postconsumer Recycled Content Requirements**

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

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

7 (i) Water and flavored water;

8 (ii) Beer or other malt beverages;

9 (iii) Wine;

10 (iv) Distilled spirits;

11 (v) Mineral water, soda water, and similar carbonated soft
12 drinks;

13 (vi) Dairy milk; and

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

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

22 (2) "Beverage manufacturing industry" means an association that
23 represents beverage producers.

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

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

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

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

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

36 (a) In or into the country for sale in Washington state less than
37 one ton of PCRC products specified in subsection (18)(a)(i) through
38 (vi) of this section; 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 (6) "Department" means the department of ecology.

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

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

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

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

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

21 (a) Liquid soaps, laundry soaps, detergents, softeners, surface
22 polishes, and stain removers;

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

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

26 (12) "Licensee" means a manufacturer of a PCRC product or entity
27 who licenses a brand and manufactures a PCRC product under that
28 brand.

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

34 (a) Shampoo, conditioner, styling sprays and gels, and other hair
35 care products;

36 (b) Lotion, moisturizer, facial toner, and other skin care
37 products;

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

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

1 (14)(a) "Plastic beverage container" means a bottle or other
2 rigid container that is capable of maintaining its shape when empty,
3 comprised of one or multiple plastic resins designed to contain a
4 beverage.

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

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

9 (ii) Rigid plastic containers or plastic bottles that are or are
10 used for medical devices, medical products that are required to be
11 sterile, prescription drugs, or dietary supplements as defined in RCW
12 82.08.0293 that do not contain a "nutrition facts" label required
13 under federal law; or

14 (iii) Bladders or pouches that contain a beverage.

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

18 (i) A minimum capacity of eight fluid ounces or its equivalent
19 volume;

20 (ii) A maximum capacity of five fluid gallons or its equivalent
21 volume;

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

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

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

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

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

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

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

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

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

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

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

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

10 (i) Household cleaning and personal care products;

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

15 (iii) Thermoform plastic containers;

16 (iv) Single-use plastic cups; and

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

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

24 (ii) "PCRC" includes returns of material from the distribution
25 chain.

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

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

31 (i) Household cleaning products that use plastic household
32 cleaning product containers;

33 (ii) Personal care products that use personal care product
34 containers;

35 (iii) Beverages that use plastic beverage containers;

36 (iv) Plastic tubs;

37 (v) Thermoform plastic containers;

38 (vi) Single-use plastic cups; and

39 (vii) Cannabis, cannabis concentrates, useable cannabis, and
40 cannabis-infused products subject to the rules adopted by the liquor

1 and cannabis board under chapter 69.50 RCW that are contained in or
2 packaged in plastic containers or packaging.

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

6 (19) "Producer" has the same meaning as defined in section 102 of
7 this act.

8 (20) "Producer responsibility organization" has the same meaning
9 as defined in section 102 of this act, except that for the purposes
10 of this chapter, "producer responsibility organization" includes a
11 distributor responsibility organization formed under chapter 70A.---
12 RCW (the new chapter created in section 603 of this act), if a
13 distributor responsibility organization is formed.

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

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

24 (22)(a) "Single-use plastic cup" means all beverage cups that are
25 nonsealed or sealed at point of sale.

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

- 27 (i) Commercially or home compostable cups;
- 28 (ii) Expanded polystyrene cups; or
- 29 (iii) Composite plastic-lined fiber cups.

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

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

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

1 (iii) Unfilled containers that are sold directly.

2 (b) "Thermoform plastic container" includes:

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

5 (ii) Two-piece unhinged containers;

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

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

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

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

11 (ii) Plastic tubs;

12 (iii) Reusable containers;

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

14 (v) A reusable thermoform plastic container that ordinarily would
15 be returned to the manufacturer to be refilled and resold;

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

19 (vii) Packaging for cannabis concentrates, useable cannabis, and
20 cannabis-infused products subject to the requirements of this
21 chapter;

22 (viii) Other PCRC products; and

23 (ix) Thermoform plastic containers accompanying a durable good
24 when the durable good model, and the associated packaging, was
25 designed prior to January 1, 2025.

26 NEW SECTION. **Sec. 202.** DE MINIMIS PRODUCERS. (1) For purposes
27 of determining whether a producer is a de minimis producer, the
28 weight and revenue definitional thresholds must be calculated at the
29 level of the "entity" associated with the PCRC product by the
30 producer responsibility organization.

31 (2) The exemptions under this chapter for de minimis producers do
32 not apply to entities that have agreed to accept responsibility for
33 compliance with the requirements of this chapter for a PCRC product
34 on the behalf of another producer.

35 (3) (a) De minimis producers are not required to meet annual
36 registration, reporting, PCRC, or fee requirements of PCRC products
37 under this chapter.

1 (b) De minimis producers must annually notify the producer
2 responsibility organization in which the producer participates to
3 demonstrate that they are de minimis producers.

4 (4) The producer responsibility organization must submit to the
5 department information necessary to verify whether a producer
6 qualifies for the de minimis status, including:

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

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

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

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

12 (1)(a) By January 1, 2024, and each January 1st thereafter, a
13 producer responsibility organization under chapter 70A.--- RCW (the
14 new chapter created in section 601 of this act) that represents
15 producers who offers for sale, sells, or distributes in or into
16 Washington PCRC products must register with the department on behalf
17 of each producer registered with the producer responsibility
18 organization with sale or distribution of PCRC products in or into
19 Washington.

20 (b) The registration information submitted under (a) of this
21 subsection must include a list of the producers of PCRC products and
22 the associated brand names of the PCRC products represented in the
23 registration submittal.

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

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

31 (b) Beginning January 1, 2025, producers of household cleaning
32 products or personal care products in plastic household cleaning
33 product containers or plastic personal care product containers must
34 meet minimum PCRC requirements as required under section 205 of this
35 act.

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

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

5 (e) Beginning January 1, 2029, producers of single-use plastic
6 cups must meet minimum PCRC requirements established under section
7 207 of this act.

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

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

14 (h) Beginning January 1, 2025, producers of Washington cannabis,
15 cannabis concentrates, useable cannabis, and cannabis-infused
16 products subject to the rules adopted by the liquor and cannabis
17 board under chapter 69.50 RCW that are contained in or packaged in
18 plastic containers or packaging must meet minimum PCRC requirements
19 established under section 209 of this act.

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

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

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

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

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

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

34 (vi) February 1, 2032, for thermoform plastic containers except
35 those containing durable goods;

36 (vii) February 1, 2037, for thermoform plastic containers
37 containing durable goods; and

38 (viii) February 1, 2027, for cannabis, cannabis concentrates,
39 useable cannabis, and cannabis-infused products subject to the rules

1 adopted by the liquor and cannabis board under chapter 69.50 RCW that
2 are contained in or packaged in plastic containers or packaging.

3 (b) Producer PCRC annual reports to the producer responsibility
4 organization must include:

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

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

12 (iii) Any additional information adopted by rule by the
13 department.

14 NEW SECTION. **Sec. 204.** PCRC REQUIREMENTS FOR PLASTIC BEVERAGE
15 CONTAINERS. A producer of a beverage in a plastic beverage container
16 must meet the following annual minimum PCRC percentage on average for
17 the total quantity of plastic beverage containers, by weight, that
18 are sold, offered for sale, or distributed in or into Washington by
19 the producer effective:

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

22 (a) January 1, 2023, through December 31, 2025: No less than 15
23 percent PCRC plastic by weight;

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

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

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

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

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

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

36 NEW SECTION. **Sec. 205.** PCRC REQUIREMENTS FOR HOUSEHOLD CLEANING
37 PRODUCTS AND PERSONAL CARE PRODUCTS. A producer of household cleaning
38 products in plastic containers or a producer of personal care

1 products in plastic containers must meet the following annual minimum
2 PCRC percentage on average for the total quantity of plastic
3 containers, by weight, that are sold, offered for sale, or
4 distributed in or into Washington by the producer effective:

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

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

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

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

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

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

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

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

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

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

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

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

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

1 NEW SECTION. **Sec. 208.** PCRC REQUIREMENTS FOR THERMOFORM PLASTIC
2 CONTAINERS. A producer of a thermoform plastic container must meet
3 the following annual minimum PCRC percentage on average for the total
4 quantity of thermoform plastic containers, by weight, that are sold,
5 offered for sale, or distributed in or into Washington by the
6 producer effective:

7 (1) For packaging for consumable goods:

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

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

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

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

18 NEW SECTION. **Sec. 209.** A new section is added to chapter
19 70A.245 RCW to read as follows:

20 PCRC FOR CANNABIS PACKAGING. (1) A producer of cannabis, cannabis
21 concentrates, useable cannabis, or cannabis-infused products that are
22 produced, processed, and sold pursuant to chapter 69.50 RCW and that
23 are contained in or packaged in plastic containers or packaging must
24 meet the following annual minimum postconsumer recycled content
25 percentage on average for the total quantity of covered products, by
26 weight, that are sold, offered for sale, or distributed in or into
27 Washington by the producer effective:

28 (a) January 1, 2025, through December 31, 2030: No less than 25
29 percent postconsumer recycled content plastic by weight;

30 (b) Beginning January 1, 2031: No less than 50 percent
31 postconsumer recycled content plastic by weight.

32 (2) (a) The department must consult with the liquor and cannabis
33 board in the implementation and enforcement of this section, and all
34 registration, reporting, and temporary exclusion or rate adjustment
35 petitions related to products subject to the requirements of this
36 section.

37 (b) The liquor and cannabis board may recommend that the
38 department adopt changes by rule to the timelines or postconsumer-
39 recycled content requirements of this section in order to address

1 packaging integrity, safety, or other packaging needs related to the
2 implementation of chapter 69.50 RCW with respect to products subject
3 to the requirements of this section. The department may adopt rules
4 to accord with recommendations made by the liquor and cannabis board
5 under this section.

6 (3) This section applies to a person licensed under RCW 69.50.325
7 as a cannabis producer, cannabis processor, or as both a cannabis
8 producer and cannabis processor when the person meets the definition
9 of producer in this chapter.

10 NEW SECTION. **Sec. 210.** PCRC REPORTING BY PRODUCER
11 RESPONSIBILITY ORGANIZATIONS. (1) A producer responsibility
12 organization reporting to the department under this chapter must pay
13 fees as specified in chapter 70A.--- RCW (the new chapter created in
14 section 601 of this act).

15 (2) Beginning April 1, 2024, and each April 1st thereafter, a
16 producer responsibility organization must annually report to the
17 department for each producer of PCRC products for which it receives
18 reports from producers under section 203 of this act:

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

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

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

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

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

32 (b) The report must include, for each producer, a certificate of
33 compliance or similar proof of certification conducted by a
34 nationally recognized, independent third party that has achieved
35 ISO/IEC 17065 accreditation, as it existed as of January 1, 2023, or
36 a similar certification identified by the department. The proof of
37 certification must include all of the following:

38 (i) The names, locations, and contact information of all sources
39 of PCRC material and suppliers of PCRC material;

1 (ii) The quantity and dates of PCRC material purchases by the
2 producer; and

3 (iii) How PCRC material was obtained.

4 (4) (a) A producer responsibility organization may, as part of the
5 annual report submitted to the department under this section,
6 petition for an exclusion or adjustment under section 211 of this act
7 covering the upcoming calendar year to the minimum PCRC requirements
8 on behalf of producers registered with the producer responsibility
9 organization.

10 (b) When submitting a petition for a PCRC rate adjustment, the
11 producer responsibility organization must provide necessary
12 information that will allow the department to make a determination
13 based on the factors listed in section 211(2) of this act.

14 (c) When submitting a petition for a PCRC rate temporary
15 exclusion, the producer responsibility organization must provide
16 necessary information that will allow the department to make a
17 determination based on the factors listed in section 211(4) of this
18 act.

19 (5) The department must review and determine whether to approve
20 PCRC reports submitted by producer responsibility organizations. The
21 department must:

22 (a) Make PCRC reports submitted under this section, including
23 petitions for exclusions or rate adjustments under section 211 of
24 this act, available for public review and comment for at least 30
25 days upon the receipt of the annual report by the department;

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

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

30 (ii) Reasons for not approving the PCRC annual report. The
31 producer responsibility organization must submit a revised PCRC
32 annual report within 60 days after receipt of the letter of
33 disapproval.

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

37 NEW SECTION. **Sec. 211.** ADJUSTMENTS AND TEMPORARY EXCLUSIONS TO
38 PCRC RATES. (1) The department may review and determine for the
39 following year whether to adjust the minimum PCRC percentage required

1 for a type of container or PCRC product or category of PCRC products
2 under this chapter. The department's review may be initiated by the
3 department or upon a petition by a producer responsibility
4 organization in its annual report submitted to the department under
5 section 210 of this act.

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

9 (a) Changes in market conditions, including supply and demand for
10 PCRC plastics, collection rates, and bale availability both
11 domestically and globally;

12 (b) Recycling rates;

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

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

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

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

27 (3)(a) Under this section, the department may not adjust the
28 minimum PCRC requirements above the minimum PCRC percentages under
29 sections 204, 206, 207, 208, and 209 of this act for the year under
30 review.

31 (b) For plastic household cleaning product containers and plastic
32 personal care product containers, the department may not adjust the
33 minimum PCRC requirements above the minimum PCRC percentages for the
34 year under review required pursuant to section 205 of this act or
35 below a minimum of 10 percent.

36 (4)(a) The department must temporarily exclude from minimum PCRC
37 requirements for the upcoming year any types of PCRC products in
38 plastic containers for which a producer responsibility organization
39 demonstrates to the department in its annual report under section 210
40 of this act that the:

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

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

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

11 (5) A producer or producer responsibility organization may appeal
12 a decision by the department to adjust PCRC percentages under this
13 section or to temporarily exclude covered products from minimum PCRC
14 requirements under subsection (4) of this section to the pollution
15 control hearings board within 30 days of the department's
16 determination.

17 NEW SECTION. **Sec. 212.** ADMINISTRATIVE ROLE AND ENFORCEMENT BY
18 THE DEPARTMENT. (1)(a) A producer that does not pay fees, register,
19 report, or achieve the PCRC requirements established under this
20 chapter is subject to the penalties provided in this section.

21 (b) A producer responsibility organization that does meet the
22 registration, fee payment, or reporting requirements under this
23 chapter is subject to the provisions provided in section 124 of this
24 act.

25 (2)(a) A producer assessed a penalty pursuant to this chapter
26 must remit the penalty to the producer responsibility organization
27 with which it is registered. A producer responsibility organization
28 must submit aggregated penalty payments comprised of the remitted
29 penalty payments from all producers owing penalties under this
30 chapter that are members of the producer responsibility organization.
31 The producer responsibility organization's aggregated payment may be
32 a single annual payment, paid in quarterly installments, or on an
33 alternative payment schedule arranged subject to the approval of the
34 department. The department may not approve an alternative payment
35 schedule that exceeds a 12-month time frame unless the department
36 determines that an extension is needed due to unforeseen
37 circumstances, such as a public health emergency, state of emergency,
38 or natural disaster.

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

10 (i)(A) Based on data provided in the annual report submitted
11 under section 210 of this act by a producer responsibility
12 organization, the annual penalty amount assessed to a producer must
13 equal the product of both of the following: The total pounds of
14 plastic used per category multiplied by the relevant minimum PCRC
15 plastic target percentage, less the pounds of total plastic
16 multiplied by the percent of PCRC plastic used; multiplied by 20
17 cents.

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

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

23 (A) The total pounds of plastic used must equal the sum of the
24 amount of virgin plastic, PCRC plastic, and any other plastic used by
25 the producer, as reported pursuant to section 210 of this act;

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

29 (3)(a) Upon request in the annual report submitted under section
30 210 of this act by a producer responsibility organization, the
31 department must consider granting a reduction of penalties assessed
32 under this section for a producer's failure to achieve PCRC
33 requirements established in this chapter. A producer responsibility
34 organization's request to the department must contain sufficient
35 information described in (b) of this subsection to allow the
36 department to determine whether to grant the request.

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

39 (i) Anomalous market conditions;

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

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

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

8 (4) For purposes of determining compliance with the PCRC
9 requirements of this chapter, the department may consider information
10 provided by the producer responsibility organization regarding the
11 date of manufacture of a PCRC product or the container of a PCRC
12 product.

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

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

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

22 (b) A city, town, county, or municipal corporation may establish
23 local purchasing requirements that include recycled content standards
24 that exceed the minimum recycled content requirements established by
25 this chapter for plastic household cleaning product containers and
26 plastic personal care product containers purchased by a city, town,
27 or municipal corporation, or its contractor.

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

32 NEW SECTION. **Sec. 213.** PRODUCER RESPONSIBILITY ORGANIZATION
33 AUTHORITY. In addition to the eco-modulation factors to encourage
34 recycled content authorized in section 112(5)(a) of this act, a
35 producer responsibility organization may:

36 (1) Establish minimum PCRC requirements for plastic products
37 other than PCRC products subject to the standards in sections 204
38 through 210 of this act for those products covered by a plan

1 implemented by the producer responsibility organization under chapter
2 70A.--- RCW (the new chapter created in section 601 of this act);

3 (2) Increase the minimum PCRC requirements for plastic products
4 subject to the standards in sections 204 through 209 of this act for
5 those products covered by a plan implemented by the producer
6 responsibility organization under chapter 70A.--- RCW (the new
7 chapter created in section 601 of this act); or

8 (3) Require minimum PCRC requirements be met on a faster timeline
9 than that established in sections 204 through 209 of this act for
10 those plastic products covered by a plan implemented by the producer
11 responsibility organization under chapter 70A.--- RCW (the new
12 chapter created in section 601 of this act).

13 NEW SECTION. **Sec. 214.** RULE-MAKING AUTHORITY. The department
14 may adopt rules as necessary to implement, administer, and enforce
15 this chapter.

16 **Sec. 215.** RCW 70A.245.010 and 2021 c 313 s 2 are each amended to
17 read as follows:

18 The definitions in this section apply throughout this chapter
19 unless the context clearly requires otherwise.

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

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

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

26 ~~(c) Wine;~~

27 ~~(d) Distilled spirits;~~

28 ~~(e) Mineral water, soda water, and similar carbonated soft~~
29 ~~drinks; and~~

30 ~~(f) Any beverage other than those specified in (a) through (e) of~~
31 ~~this subsection, except infant formula as defined in 21 U.S.C. Sec.~~
32 ~~321(z), medical food as defined in 21 U.S.C. Sec. 360ee(b)(3), or~~
33 ~~fortified oral nutritional supplements used for persons who require~~
34 ~~supplemental or sole source nutritional needs due to special dietary~~
35 ~~needs directly related to cancer, chronic kidney disease, diabetes,~~
36 ~~or other medical conditions as determined by the department.~~

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

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

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

9 ~~(i) Plastic trash bags;~~

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

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

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

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

19 ~~(6))~~ (2) "Department" means the department of ecology.

20 ~~((7))~~ (3) "Expanded polystyrene" means blown polystyrene and
21 expanded and extruded foams that are thermoplastic petrochemical
22 materials utilizing a styrene monomer and processed by any number of
23 techniques including, but not limited to, fusion of polymer spheres
24 (expandable bead polystyrene), injection molding, foam molding, and
25 extrusion-blow molding (extruded foam polystyrene).

26 ~~((8))~~ (4) "Food service business" means a business selling or
27 providing food for consumption on or off the premises, and includes
28 full-service restaurants, fast food restaurants, cafes,
29 delicatessens, coffee shops, grocery stores, vending trucks or carts,
30 home delivery services, delivery services provided through an online
31 application, and business or institutional cafeterias.

32 ~~((9))~~ (5) "Food service product" means a product intended for
33 one-time use and used for food or drink offered for sale or use. Food
34 service products include, but are not limited to, containers, plates,
35 bowls, cups, lids, beverage containers, meat trays, deli rounds,
36 utensils, sachets, straws, condiment packaging, clamshells and other
37 hinged or lidded containers, wrap, and portion cups.

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

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

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

2 ~~(c) Liquid soap;~~

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

5 ~~(e) Lotion, moisturizer, facial toner, and other skin care~~
6 ~~products.~~

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

10 ~~(12))~~ (6) "Licensee" means a manufacturer of a certificated PCRC
11 product or entity who licenses a brand and manufactures a ~~((covered~~
12 ~~product))~~ certificated PCRC product under that brand.

13 ~~((13) "Oral nutritional supplement" means a manufactured liquid,~~
14 ~~powder capable of being reconstituted, or solid product that contains~~
15 ~~a combination of carbohydrates, proteins, fats, fiber, vitamins, and~~
16 ~~minerals intended to supplement a portion of a patient's nutrition~~
17 ~~intake.~~

18 ~~(14) "Plastic beverage container" means a bottle or other rigid~~
19 ~~container that is capable of maintaining its shape when empty,~~
20 ~~comprised solely of one or multiple plastic resins designed to~~
21 ~~contain a beverage. Plastic beverage container does not include:~~

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

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

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

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

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

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

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

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

1 ~~(iv) Comprised solely of one or multiple plastic resins; and~~
2 ~~(v) Containing a household cleaning or personal care product.~~

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

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

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

13 ~~(16))~~ (7) "Plastic trash bag" means a bag that is made of
14 noncompostable plastic, is at least 0.70 mils thick, and is designed
15 and manufactured for use as a container to hold, store, or transport
16 materials to be discarded or recycled, and includes, but is not
17 limited to, a garbage bag, recycling bag, lawn or leaf bag, can liner
18 bag, kitchen bag, or compactor bag. "Plastic trash bag" does not
19 include any compostable bags meeting the requirements of chapter
20 70A.455 RCW.

21 ~~((17) "Plastic trash bag"))~~ (8) "Certificated PCRC product
22 manufacturing industry" means an association that represents
23 companies that manufacture ~~((plastic trash bags))~~ a certificated PCRC
24 product.

25 ~~((18))~~ (9) "Postconsumer recycled content" means the content of
26 a ~~((covered product))~~ certificated PCRC product made of recycled
27 materials derived specifically from recycled material generated by
28 households or by commercial, industrial, and institutional facilities
29 in their role as end users of a product that can no longer be used
30 for its intended purpose. "Postconsumer recycled content" includes
31 returns of material from the distribution chain.

32 ~~((19))~~ (10) (a) "Producer" means the following person
33 responsible for compliance with minimum postconsumer recycled content
34 requirements under this chapter for a ~~((covered product))~~
35 certificated PCRC product sold, offered for sale, or distributed in
36 or into this state:

37 (i) (A) If the ~~((covered product))~~ certificated PCRC product is
38 sold under the certificated PCRC product manufacturer's own brand or
39 lacks identification of a brand, the producer is the person who
40 manufactures the ~~((covered product))~~ certificated PCRC product;

1 (B) If the certificated PCRC product is sold under the brand of a
2 retail establishment, the producer is the retail establishment;

3 (ii) If the ~~((covered product))~~ certificated PCRC product is
4 manufactured by a person other than the brand owner, the producer is
5 the person who is the licensee of a brand or trademark under which a
6 ~~((covered product))~~ certificated PCRC product is sold, offered for
7 sale, or distributed in or into this state, whether or not the
8 trademark is registered in this state, unless the manufacturer or
9 brand owner of the ~~((covered product))~~ certificated PCRC product has
10 agreed to accept responsibility under this chapter; or

11 (iii) If there is no person described in (a)(i) and (ii) of this
12 subsection over whom the state can constitutionally exercise
13 jurisdiction, the producer is the person who imports or distributes
14 the ~~((covered product))~~ certificated PCRC product in or into the
15 state.

16 (b) "Producer" does not include:

17 (i) Government ~~((agencies))~~ entities, municipalities, or other
18 political subdivisions of the state; or

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

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

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

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

28 ~~((20))~~ (11)(a) "Retail establishment" means any person,
29 corporation, partnership, business, facility, vendor, organization,
30 or individual that sells or provides merchandise, goods, or materials
31 directly to a customer.

32 (b) "Retail establishment" includes, but is not limited to, food
33 service businesses, grocery stores, department stores, hardware
34 stores, home delivery services, pharmacies, liquor stores,
35 restaurants, catering trucks, convenience stores, or other retail
36 stores or vendors, including temporary stores or vendors at farmers
37 markets, street fairs, and festivals.

38 ~~((21))~~ (12)(a) "Utensil" means a product designed to be used by
39 a consumer to facilitate the consumption of food or beverages,

1 including knives, forks, spoons, cocktail picks, chopsticks, splash
2 sticks, and stirrers.

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

5 (13) "Certificated postconsumer recycled content product" or
6 "certificated PCRC product" means:

7 (a) Pesticide products regulated by the federal insecticide,
8 fungicide, and rodenticide act, 7 U.S.C. Sec. 136 et seq. that are in
9 direct contact with the regulated product and that are excluded from
10 the requirements of chapters 70A.--- (the new chapter created in
11 section 601 of this act) and 70A.--- RCW (the new chapter created in
12 section 602 of this act);

13 (b) Plastic trash bags; and

14 (c) Plastic plant pots and trays.

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

18 **Sec. 216.** RCW 70A.245.020 and 2021 c 313 s 3 are each amended to
19 read as follows:

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

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

26 ~~(ii) Plastic trash bags must meet minimum postconsumer recycled~~
27 ~~content requirements established under subsection (6) of this~~
28 ~~section.~~

29 ~~(b) Beginning January 1, 2025, producers that offer for sale,~~
30 ~~sell, or distribute in or into Washington household cleaning and~~
31 ~~personal care products in plastic household cleaning and personal~~
32 ~~care product containers must meet minimum postconsumer recycled~~
33 ~~content as required under subsection (5) of this section.~~

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

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

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

18 ~~(3) (a) By January 31, 2022, and every January 31st thereafter,~~
19 ~~the department must:~~

20 ~~(i) Prepare an annual workload analysis for public comment that~~
21 ~~identifies the annual costs it expects to incur to implement,~~
22 ~~administer, and enforce this section and RCW 70A.245.030 through~~
23 ~~70A.245.060 and 70A.245.090 (1), (2), and (4), including rule making,~~
24 ~~in the next fiscal year for each category of covered products;~~

25 ~~(ii) Determine a total annual fee payment by producers or their~~
26 ~~third-party representatives for each category of covered products~~
27 ~~that is adequate to cover, but not exceed, the workload identified in~~
28 ~~(a)(i) of this subsection;~~

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

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

39 ~~(v) Send notice to producers or their third-party representatives~~
40 ~~of fee amounts due consistent with either the general order issued~~

1 ~~under (a) (iii) of this subsection or rules adopted under (a) (iv) of~~
2 ~~this subsection.~~

3 ~~(b) The department must:~~

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

7 ~~(ii) Increase annual payments for the coming year to cover the~~
8 ~~department's costs, if the collected annual payment was less than the~~
9 ~~department's costs for a given year.~~

10 ~~(c) By April 1, 2022, and every April 1st thereafter, producers~~
11 ~~or their third-party representative must submit a fee payment as~~
12 ~~determined by the department under (a) of this subsection.~~

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

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

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

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

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

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

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

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

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

34 ~~(5)) A producer of ((household cleaning and personal care~~
35 ~~products)) pesticide products regulated by the federal insecticide,~~
36 ~~fungicide, and rodenticide act, 7 U.S.C. Sec. 136 et seq. that are in~~
37 ~~direct contact with the regulated product and that are excluded from~~
38 ~~the requirements of chapters 70A.--- (the new chapter created in~~
39 ~~section 601 of this act) and 70A.--- RCW (the new chapter created in~~
40 ~~section 602 of this act) in plastic containers must meet the~~

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

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

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

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

11 ~~((+6))~~ (2) A producer of plastic trash bags must meet the
12 following annual minimum postconsumer recycled content percentage on
13 average for the total quantity of plastic trash bags, by weight, that
14 are sold, offered for sale, or distributed in or into Washington by
15 the producer effective:

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

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

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

22 ~~((+7)(a) Beginning January 1, 2024, or when rule making is
23 complete, whichever is sooner, the department may, on an annual basis
24 on January 1st,))~~ (3) A producer of plastic plant pots or trays must
25 meet the following annual minimum postconsumer recycled content
26 percentage on average for the total quantity of covered products, by
27 weight, that are sold, offered for sale, or distributed in or into
28 Washington by the producer effective:

29 (a) January 1, 2026, through December 31, 2030: No less than 30
30 percent postconsumer recycled content plastic by weight;

31 (b) On and after January 1, 2031: No less than 80 percent
32 postconsumer recycled content plastic by weight.

33 (4)(a) By October 31st of each year, the department may review
34 and determine for the following year whether to adjust the minimum
35 postconsumer recycled content percentage (~~required for a type of~~
36 container or product or category of covered products)) pursuant to
37 subsection ~~((+4), (5), or (6))~~ (1), (2), or (3) of this section. The
38 department's review may be initiated by the department or at the
39 petition of a producer or ~~(a covered product)~~ the certificated PCRC
40 product manufacturing industry not more than once annually. Petitions

1 for review and adjustment must be made to the department by June 30th
2 of the year prior to the year in which the adjustment would apply.
3 When submitting a petition, producers or ~~((a—producer))~~ the
4 certificated PCRC product manufacturing industry must provide
5 necessary information that will allow the department to make a
6 determination under (b) of this subsection.

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

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

12 (ii) Recycling rates;

13 (iii) The availability of recycled plastic suitable to meet the
14 minimum postconsumer recycled content requirements pursuant to
15 subsection ~~((4), (5), or (6))~~ (1), (2), or (3) of this section,
16 including the availability of high quality recycled plastic ~~((, and~~
17 ~~food-grade recycled plastic from recycling programs))~~;

18 (iv) The capacity of recycling or processing infrastructure; and

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

26 ~~(vi))~~ The progress made by producers in achieving the goals of
27 this section.

28 (c) Under (a) of this subsection ~~((~~

29 ~~(i) The department may not adjust the minimum postconsumer~~
30 ~~recycled content requirements above the minimum postconsumer recycled~~
31 ~~content percentages for the year under review required pursuant to~~
32 ~~subsection (4), (5), or (6) of this section.~~

33 ~~(ii) For plastic household cleaning and personal care product~~
34 ~~containers, the department may not adjust the minimum postconsumer~~
35 ~~recycled content requirements above the minimum postconsumer recycled~~
36 ~~content percentages for the year under review required pursuant to~~
37 ~~subsection (5) of this section or below a minimum of 10 percent.~~

38 ~~(iii) For plastic trash bags)),~~ the department may not adjust the
39 minimum postconsumer recycled content requirements above the minimum
40 postconsumer recycled content percentages for the year under review

1 required pursuant to subsection ~~((6))~~ (1), (2), or (3) of this
2 section or below the minimum percentage required in subsection
3 ~~((6))~~ (1)(a), (2)(a), or (3)(a) of this section.

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

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

23 ~~(9))~~ (5) A producer that does not achieve the postconsumer
24 recycled content requirements established under this section or does
25 not comply with the labeling requirements established in chapter
26 70A.245 RCW is subject to penalties established in RCW 70A.245.040.

27 ~~((10))~~ (6)(a) A city, town, county, or municipal corporation
28 may not implement local recycled content requirements for ~~((a covered
29 product that is))~~ certificated PCRC products that are subject to
30 minimum postconsumer recycled content requirements established in
31 this section.

32 (b) A city, town, county, or municipal corporation may establish
33 local purchasing requirements that include recycled content standards
34 that exceed the minimum recycled content requirements established by
35 this chapter for ~~((plastic household cleaning and personal care
36 product containers or plastic trash bags))~~ certificated PCRC products
37 purchased by a city, town, or municipal corporation, or its
38 contractor.

1 ~~((11) The department may enter into contracts for the services~~
2 ~~required to implement this chapter and related duties of the~~
3 ~~department.~~

4 ~~(12))~~ (7) In-state distributors, wholesalers, and retailers in
5 possession of ((covered products)) certificated PCRC products
6 manufactured before the date that postconsumer recycled content
7 requirements become effective may exhaust their existing stock
8 through sales to the public.

9 **Sec. 217.** RCW 70A.245.030 and 2021 c 313 s 4 are each amended to
10 read as follows:

11 ~~(1) ((a) Except as provided in (b) and (c) of this subsection,~~
12 ~~beginning April 1, 2024, each producer of covered products,~~
13 ~~individually or through a third party representing a group of~~
14 ~~producers, must provide an annual report to the department that~~
15 ~~includes the amount in pounds of virgin plastic and the amount in~~
16 ~~pounds of postconsumer recycled content by resin type used for each~~
17 ~~category of covered products that are sold, offered for sale, or~~
18 ~~distributed in or into Washington state, including the total~~
19 ~~postconsumer recycled content resins as a percentage of total weight.~~
20 ~~The report must be submitted in a format and manner prescribed by the~~
21 ~~department. A manufacturer may submit national data allocated on a~~
22 ~~per capita basis for Washington to approximate the information~~
23 ~~required in this subsection if the producer or third-party~~
24 ~~representative demonstrates to the department that state level data~~
25 ~~are not available or feasible to generate.~~

26 ~~(b) The requirements of (a) of this subsection apply to household~~
27 ~~cleaning and personal care products in plastic containers beginning~~
28 ~~April 1, 2026.~~

29 ~~(c) The requirements of (a) of this subsection apply to wine in~~
30 ~~187 milliliter plastic beverage containers and dairy milk in plastic~~
31 ~~beverage containers beginning April 1, 2029.~~

32 ~~(d) The department must post the information reported under this~~
33 ~~subsection on its website, except as provided in subsection (2) of~~
34 ~~this section)) A plastic trash bag producer must develop a~~
35 ~~certificate of compliance stating that a plastic trash bag is in~~
36 ~~compliance with the labeling requirements of RCW 70A.245.060 and the~~
37 ~~postconsumer recycled content requirements of RCW 70.245.020. A~~
38 ~~producer of other certificated PCRC products must develop a~~
39 ~~certificate of compliance stating that the certificated PCRC product~~

1 is in compliance with the postconsumer recycled content requirements
2 of RCW 70A.245.020.

3 ~~(2) A producer ((that submits information or records to the~~
4 ~~department under this chapter may request that the information or~~
5 ~~records be made available only for the confidential use of the~~
6 ~~department, the director, or the appropriate division of the~~
7 ~~department. The director of the department must give consideration to~~
8 ~~the request and if this action is not detrimental to the public~~
9 ~~interest and is otherwise in accordance with the policies and~~
10 ~~purposes of chapter 43.21A RCW, the director must grant the request~~
11 ~~for the information to remain confidential as authorized in~~
12 ~~RCW 43.21A.160))~~ shall develop a compliance certificate by the dates
13 on which the postconsumer recycled content requirements in RCW
14 70A.245.020 take effect for the producer's certificated PCRC
15 products.

16 (3) If compliance with minimum recycled content requirements is
17 achieved through an adjustment made pursuant to RCW 70A.245.020(4),
18 the certificate must state the specific basis upon which the
19 exemption is claimed.

20 (4)(a) The certificate of compliance must be signed by an
21 authorized official of the producer.

22 (b) The certificate of compliance must be kept on file by the
23 producer for three years from the date of the last sale or
24 distribution by the producer.

25 (c) A producer must furnish a certificate of compliance to the
26 department upon request within 60 days.

27 (d) Requests from a member of the public for any certificate of
28 compliance must be made in writing to the department and must be
29 specific as to the certificated PCRC product information requested.
30 The department must respond to requests from a member of the public
31 under this subsection within 90 days.

32 (e) If manufacturers are required under any other state statute,
33 including chapter 70A.222 RCW, to provide a certificate of
34 compliance, one certificate may be developed containing all required
35 information.

36 (f) If the producer of the certificated PCRC product reformulates
37 or creates a new certificated PCRC product, the producer shall
38 develop an amended or new certificate of compliance for the
39 reformulated or new certificated PCRC product.

1 **Sec. 218.** RCW 70A.245.040 and 2021 c 313 s 5 are each amended to
2 read as follows:

3 ~~(1) ((a) A producer that does not meet the minimum postconsumer~~
4 ~~recycled content requirements pursuant to RCW 70A.245.020 is subject~~
5 ~~to a penalty pursuant to this section. Beginning June 1st of the year~~
6 ~~following the first year that minimum postconsumer recycled product~~
7 ~~content requirements apply to a category of covered product, the~~
8 ~~penalty must be calculated consistent with subsection (2) of this~~
9 ~~section unless a penalty reduction or corrective action plan has been~~
10 ~~approved pursuant to subsection (3) of this section.~~

11 ~~(b) A producer that is assessed a penalty pursuant to this~~
12 ~~section may pay the penalty to the department in one payment, in~~
13 ~~quarterly installments, or arrange an alternative payment schedule~~
14 ~~subject to the approval of the department, not to exceed a 12-month~~
15 ~~payment schedule unless the department determines an extension is~~
16 ~~needed due to unforeseen circumstances, such as a public health~~
17 ~~emergency, state of emergency, or natural disaster.~~

18 ~~(2) Beginning June 1st of the year following the first year that~~
19 ~~minimum postconsumer recycled product content requirements apply to a~~
20 ~~category of covered product, and annually thereafter, the department~~
21 ~~shall determine the penalty for the previous calendar year based on~~
22 ~~the postconsumer recycled content requirement of the previous~~
23 ~~calendar year. The department shall calculate the amount of the~~
24 ~~penalty based upon the amounts in pounds in the aggregate of virgin~~
25 ~~plastic, postconsumer recycled content plastic, and any other plastic~~
26 ~~per category used by the producer to produce covered products sold or~~
27 ~~offered for sale in or into Washington state, in accordance with the~~
28 ~~following:~~

29 ~~(a) (i) The annual penalty amount assessed to a producer must~~
30 ~~equal the product of both of the following: The total pounds of~~
31 ~~plastic used per category multiplied by the relevant minimum~~
32 ~~postconsumer recycled plastic target percentage, less the pounds of~~
33 ~~total plastic multiplied by the percent of postconsumer recycled~~
34 ~~plastic used; multiplied by 20 cents.~~

35 ~~(ii) Example: [(Total pounds of plastic used x minimum~~
36 ~~postconsumer recycled plastic target percentage) - (Total pounds of~~
37 ~~plastic used x postconsumer recycled plastic percentage used)] x 20~~
38 ~~cents.~~

39 ~~(b) For the purposes of (a) of this subsection, both of the~~
40 ~~following apply:~~

1 ~~(i) The total pounds of plastic used must equal the sum of the~~
2 ~~amount of virgin plastic, postconsumer recycled content plastic, and~~
3 ~~any other plastic used by the producer, as reported pursuant to RCW~~
4 ~~70A.245.030.~~

5 ~~(ii) If the product calculated pursuant to (a) of this subsection~~
6 ~~is equal to or less than zero, the department may not assess a~~
7 ~~penalty.~~

8 ~~(3) (a) (i) The department shall consider granting a reduction of~~
9 ~~penalties assessed pursuant to this section for the purpose of~~
10 ~~meeting the minimum postconsumer recycled content requirements~~
11 ~~required pursuant to RCW 70A.245.020.~~

12 ~~(ii) In determining whether to grant the reduction pursuant to~~
13 ~~(a) (i) of this subsection, the department shall consider, at a~~
14 ~~minimum, all of the following factors:~~

- 15 ~~(A) Anomalous market conditions;~~
- 16 ~~(B) Disruption in, or lack of supply of, recycled plastics; and~~
- 17 ~~(C) Other factors that have prevented a producer from meeting the~~
18 ~~requirements.~~

19 ~~(b) In lieu of or in addition to assessing a penalty under this~~
20 ~~section, the department may require a producer to submit a corrective~~
21 ~~action plan detailing how the producer plans to come into compliance~~
22 ~~with RCW 70A.245.020.~~

23 ~~(4) For the purposes of determining compliance with the~~
24 ~~postconsumer recycled content requirements of this chapter, the~~
25 ~~department may consider the date of manufacture of a covered product~~
26 ~~or the container of a covered product.~~

27 ~~(5) A producer shall pay the penalty assessed pursuant to this~~
28 ~~section, as applicable, based on the information reported to the~~
29 ~~department as required under RCW 70A.245.030 in the form and manner~~
30 ~~prescribed by the department.~~

31 (6)) (a) The department may assess a civil penalty to a producer
32 in violation of the requirements of RCW 70A.245.020, 70A.245.030, or
33 70A.245.060 in the amount of up to \$2,000 for the first violation of
34 this chapter, up to \$5,000 for the second violation of this chapter,
35 and up to \$10,000 for the third and any subsequent violation of this
36 chapter.

37 (b) A specific violation is deemed to have occurred upon the sale
38 of noncompliant product by stock-keeping unit number or unique item
39 number. The repeated sale of the same noncompliant product by stock-

1 keeping unit number or unique item number is considered a single
2 violation.

3 (2) In addition to the penalties authorized under subsection (1)
4 of this section, the department may prohibit the sale of any
5 certificated PCRC products for which a manufacturer has failed to
6 respond to a request by the department for a certificate of
7 compliance within 60 days.

8 (3) For the purposes of determining compliance with the
9 postconsumer recycled content requirements of this chapter, the
10 department may consider the date of manufacture of a certificated
11 PCRC product.

12 (4) A producer may appeal the penalty assessed under this section
13 to the pollution control hearings board within 30 days of assessment.

14 ~~((7))~~ (5) Penalties collected under this section must be
15 deposited in the recycling enhancement account created in RCW
16 70A.245.100.

17 **Sec. 219.** RCW 70A.245.090 and 2021 c 313 s 12 are each amended
18 to read as follows:

19 ~~(1) ((The department may conduct audits and investigations for~~
20 ~~the purpose of ensuring compliance with RCW 70A.245.020 and~~
21 ~~70A.245.040 based on the information reported under RCW 70A.245.030.~~

22 ~~(2) The department shall annually publish a list of registered~~
23 ~~producers of covered products and associated brand names, their~~
24 ~~compliance status, and other information the department deems~~
25 ~~appropriate on the department's website.~~

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

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

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

37 ~~((4))~~ (2) The department may adopt rules as necessary to
38 administer, implement, and enforce this chapter.

1 **Sec. 220.** RCW 70A.245.100 and 2021 c 313 s 13 are each amended
2 to read as follows:

3 The recycling enhancement account is created in the custody of
4 the state treasurer. All penalties collected by the department
5 pursuant to RCW 70A.245.040 (~~and~~), 70A.245.050, and sections 213
6 and 316 of this act must be deposited in the account. Only the
7 director of the department or the director's designee may authorize
8 expenditures from the account. The account is subject to the
9 allotment procedures under chapter 43.88 RCW, but an appropriation is
10 not required for expenditures. Expenditures from the account may be
11 used by the department only for providing grants to local governments
12 for the purpose of supporting local solid waste and financial
13 assistance programs.

14 **Sec. 221.** RCW 70A.245.120 and 2021 c 313 s 15 are each amended
15 to read as follows:

16 (1) Subject to the availability of amounts appropriated for this
17 specific purpose prior to January 1, 2028, the department shall
18 contract with a research university or an independent third-party
19 consultant to study the plastic resin markets for all of the
20 following:

21 (a) Analyzing market conditions and opportunities in the state's
22 recycling industry for meeting the minimum postconsumer recycled
23 content requirements for (~~covered products~~) certificated PCRC
24 products pursuant to RCW 70A.245.020 and 70A.245.030 for products
25 subject to minimum postconsumer recycled content requirements under
26 chapter 70A.--- RCW (the new chapter created in section 601 of this
27 act), and for roll carts subject to section 223 of this act; and

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

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

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

35 **Sec. 222.** RCW 70A.245.060 and 2021 c 313 s 7 are each amended to
36 read as follows:

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

4 (a) The name of the producer and the city, state, and country
5 where the producer is located, which may be designated as the
6 location of the producer's corporate headquarters, and the percentage
7 of postconsumer recycled content that the plastic trash bag contains;
8 or

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

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

15 (b) For the purposes of this subsection:

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

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

20 NEW SECTION. **Sec. 223.** A new section is added to chapter
21 70A.245 RCW to read as follows:

22 ROLL CARTS. (1) Beginning January 1, 2024, a manufacturer or
23 person may only sell, offer for sale, or distribute for use in
24 Washington plastic collection bins made from at least 25 percent
25 postconsumer recycled content, including at least 10 percent derived
26 from curbside recycling programs. However, a person providing solid
27 waste collection services may distribute for use in Washington any
28 plastic collection bins that were in use or in its inventory in
29 Washington state prior to January 1, 2024, until the end of such
30 bins' useful life.

31 (2) A person with an existing municipal contract for plastic
32 collection bins that was in place prior to August 1, 2023, is exempt
33 from this section until the expiration or renewal date of the
34 contract. A new or renewed contract whose terms take effect after
35 August 1, 2023, must be consistent with the requirements of this
36 section. Exempt persons are encouraged to meet the requirements of
37 this section as collection bins are replaced under existing
38 contracts.

1 (3) Manufacturers of plastic collection bins, including persons
2 that sell, offer for sale, distribute, or provide collection bins in
3 Washington must provide written evidence or certification, upon
4 request, to the department or any municipality, retailer, stewardship
5 organization, solid waste collection company, or other purchaser of
6 collection bins showing that their collection bins meet the
7 requirements of this section.

8 (4) For the purposes of this section, "plastic collection bins"
9 include plastic bins, cans, carts, totes, roll carts, or other
10 receptacles used to collect recyclables, compostable materials, or
11 garbage used by solid waste collection services.

12 **Part Three**

13 **Reimbursable Deposit Program Standards (Beverage Container Deposit**
14 **Program Provisions)**

15 NEW SECTION. **Sec. 301.** DEFINITIONS. The definitions in this
16 section and section 102 of this act apply throughout this chapter
17 unless the context clearly requires otherwise.

18 (1) "Dealer" has the same meaning as "retail establishment" as
19 that term is defined in section 102 of this act.

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

21 (3) "Deposit return system" means a beverage container redemption
22 program that pays a per unit refund value to consumers for qualifying
23 beverage containers and collects and processes qualifying beverage
24 containers as described in section 310 of this act.

25 (4) "Distributor" means every person or entity who engages in the
26 sale of beverages in beverage containers to a dealer in this state,
27 including any producer who engages in such sales, and dealers who
28 self-distribute their own brands.

29 (5) "Distributor responsibility organization" means an individual
30 distributor or a producer responsibility organization formed as a
31 cooperative association as defined under chapter 23.86 RCW, or an
32 alternative structure as approved by the department, that is
33 designated by a group of distributors representing the majority of
34 beverages sold in qualifying beverage containers in the state, to
35 develop and carry out the activities required of distributors by this
36 chapter.

37 (6) "Qualifying beverage container" means beverage containers as
38 described in section 303 of this act.

1 NEW SECTION. **Sec. 302.** RELATIONSHIP WITH CHAPTER 70A.--- RCW
2 (THE NEW CHAPTER CREATED IN SECTION 601 OF THIS ACT). (1) As an
3 alternative to satisfying its compliance obligation under chapter
4 70A.--- RCW (the new chapter created in section 601 of this act) for
5 the qualifying beverage containers of participating producers, a
6 producer responsibility organization is not required to consider
7 qualifying beverage containers to be covered products for purposes of
8 chapter 70A.--- RCW (the new chapter created in section 601 of this
9 act) upon a distributor responsibility organization's establishment
10 and operation of a deposit return system for the qualifying beverage
11 containers described in section 303 of this act.

12 (2) This chapter, related to the establishment of a deposit
13 return system, establishes requirements for the management of the
14 containers described in section 303 of this act.

15 (3) (a) The requirements of sections 303 through 319 of this act
16 do not apply to qualifying beverage containers unless and until a
17 distributor responsibility organization, other than a single
18 distributor acting as a distributor responsibility organization, is
19 established and files a written notice with the department at the
20 time of producer responsibility organization registration under
21 chapter 70A.--- RCW (the new chapter created in section 601 of this
22 act), that the distributor responsibility organization will establish
23 and operate a deposit return system.

24 (b) Upon the receipt of the written notice by the department
25 under (a) of this subsection, all qualifying beverage containers of
26 all producers subject to the requirements of chapter 70A.--- RCW (the
27 new chapter created in section 601 of this act) cease to be
28 considered covered products for purposes of chapter 70A.--- RCW (the
29 new chapter created in section 601 of this act) and are instead
30 subject to the requirements of this chapter.

31 (c) Nothing in this section excludes packaging associated with
32 qualifying beverage containers, other than the qualifying beverage
33 container itself, from the requirements of chapter 70A.--- RCW (the
34 new chapter created in section 601 of this act).

35 NEW SECTION. **Sec. 303.** QUALIFYING BEVERAGE CONTAINERS. (1)
36 Sections 301 through 319 of this act apply to: Except as provided in
37 subsection (2) of this section, any individual, separate, sealed
38 glass, metal, or plastic bottle or can, except for a carton, foil
39 pouch, drink box, or metal container that requires a tool to be

1 opened, that contains any beverage intended for human consumption
2 and in a quantity of less than or equal to two and one-half gallons.

3 (2) The requirements of this chapter do not apply to dairy milk,
4 infant formula, or beverages excluded from the requirements of this
5 chapter by rules adopted by the department.

6 NEW SECTION. **Sec. 304.** DISTRIBUTOR RESPONSIBILITY ORGANIZATION—
7 CREATION AND REGISTRATION. (1)(a) Each distributor that offers for
8 sale, sells, or distributes in or into Washington qualifying beverage
9 containers must either join a distributor responsibility organization
10 or must independently fulfill the duties of a distributor
11 responsibility organization. This requirement takes effect four
12 months after a producer responsibility organization or a distributor
13 responsibility organization, other than a single distributor acting
14 as a distributor responsibility organization, notifies the department
15 of its intent to operate a deposit return program under section 302
16 of this act.

17 (b) A distributor that has not joined a distributor
18 responsibility organization or that does not independently fulfill
19 the duties of a distributor responsibility organization may not sell,
20 distribute, make available for sale, or otherwise supply beverages in
21 qualifying beverage containers in or into Washington three months
22 after the date specified in (a) of this subsection. A distributor
23 that operates in violation of this requirement is subject to
24 penalties as described in section 319 of this act.

25 (2)(a) To qualify as a distributor responsibility organization
26 and be approved by the department as described in section 307 of this
27 act, a distributor responsibility organization must demonstrate to
28 the department's satisfaction that its member distributors
29 distributed the majority of beverages in qualifying beverage
30 containers sold or made available for sale in the state during the
31 most recent year for which such distribution data are available.

32 (b) A distributor responsibility organization that implements or
33 proposes to implement a plan under this chapter may not include on
34 its board of directors or other governing structure, or otherwise be
35 governed by, representatives or affiliates of any public or private
36 entities that submit bids to perform work for the distributor
37 responsibility organization or that contract with the distributor
38 responsibility organization.

1 (3) (a) By the date specified in subsection (1)(a) of this
2 section, a distributor responsibility organization and any
3 distributors independently fulfilling the requirements of this
4 chapter must register with the department and must submit with its
5 registration the following information:

6 (i) A list of the member distributors of the distributor
7 responsibility organization, their brands of beverages distributed by
8 the distributor or member distributors of the distributor
9 responsibility organization, members of the board of directors or
10 other governing structure of the distributor responsibility
11 organization, and a description, including the materials, of the
12 qualifying beverage containers; and

13 (ii) The total gross sales volume of beverages in qualifying
14 beverage containers distributed by the distributor or the member
15 distributors in Washington during the most recent year for which such
16 data are available.

17 (b) If there are changes to the list of member distributors,
18 distributed brands, or members of the board of directors or other
19 governing structure of the distributor responsibility organization by
20 the end of a given quarter, the distributor responsibility
21 organization must submit an updated list to the department within 30
22 days of the end of that quarter.

23 (4) Until a distributor responsibility organization begins to
24 submit annual reports as specified in section 311 of this act, by
25 January 15th of each year, beginning the year after distributor
26 responsibility organization registration, a distributor
27 responsibility organization must submit the following data for the
28 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 subsection. The number of any
35 qualifying beverage containers that are reusable or compostable must
36 each be reported separately from the number of other types of
37 qualifying beverage containers.

38 (5) By December 31st of the year of initial distributor
39 responsibility organization registration and every December 31st
40 thereafter, a distributor responsibility organization registered with

1 the department must submit an annual payment to the department to
2 fund the following costs:

3 (a) The cost to implement, administer, and enforce this chapter,
4 including rule making;

5 (b) One-half of the costs for the support and facilitation of the
6 advisory council created in section 121 of this act; and

7 (c) One-half of the costs for a new or updated performance rates
8 study under section 105 of this act.

9 (6) Within 180 days of the adoption of rules related to this
10 chapter, a distributor responsibility organization registered with
11 the department as described in section 307 of this act must submit a
12 plan to the department that meets the requirements of a deposit
13 return system plan as specified in section 309 of this act.

14 (7) A distributor responsibility organization registered with the
15 department must implement a deposit return system, as specified in
16 section 310 of this act, no later than two years after registration
17 with the department.

18 (8) A distributor responsibility organization registered with the
19 department may require deposits to be collected to offset the refund
20 value up to 30 days prior to the start of the deposit return system.

21 (9) A distributor responsibility organization must respond, in
22 writing, to the written comments and recommendations of the advisory
23 council created in section 121 of this act within 60 days of receipt.

24 (10) A distributor responsibility organization that submits
25 information or records to the department under this chapter may
26 request that the information or records be made available only for
27 the confidential use of the department, the director of the
28 department, or the appropriate division of the department. The
29 director of the department must give consideration to the request and
30 if this action is not detrimental to the public interest and is
31 otherwise in accordance with the policies and purposes of chapter
32 43.21A RCW, the director must grant the request for the information
33 to remain confidential as authorized in RCW 43.21A.160.

34 (11)(a) A distributor responsibility organization may not use
35 unclaimed deposits, commodity sale revenues from collected materials,
36 or other funds collected for purposes of implementing a plan required
37 under this chapter for costs associated with:

38 (i) The payment of an administrative penalty levied under this
39 chapter;

1 (ii) Administrative appeals of orders or penalties issued under
2 this chapter;

3 (iii) Litigation between the distributor responsibility
4 organization and the state;

5 (iv) Compensation of a person whose position is primarily
6 representing the distributor responsibility organization relative to
7 the passage, defeat, approval, or modification of legislation that is
8 being considered by a government entity; or

9 (v) Paid advertisements related to encouraging the passage,
10 defeat, or approval, or modification of legislation that is being
11 considered during an upcoming or current legislative session or was
12 considered during the previous legislative session.

13 (b) Nothing in this section limits the authority of a distributor
14 responsibility organization to collect funds, such as through a
15 special assessment, for purposes other than implementing a plan
16 required under this chapter, such as for the purposes identified in
17 (a)(i) through (v) of this subsection.

18 NEW SECTION. **Sec. 305.** REFUND VALUE. (1) Except as provided in
19 subsection (2) of this section, every qualifying beverage container
20 sold or offered for sale in this state must have a refund value of 10
21 cents.

22 (2) The department must determine, by rule, an additional premium
23 refund value consistent with section 309(2)(c) of this act, after
24 soliciting input from the advisory council created in section 121 of
25 this act.

26 NEW SECTION. **Sec. 306.** INDICATION OF REFUND VALUE. Every
27 beverage container sold or offered for sale in this state by a dealer
28 must clearly indicate by embossing or by a stamp, or by a label or
29 other method securely affixed to the beverage container, the refund
30 value of the container, as determined by rule adopted by the
31 department. The indication of the refund value need not identify the
32 amount of the additional refund value premium specified in section
33 309(2)(c) of this act.

34 NEW SECTION. **Sec. 307.** DEPARTMENT DUTIES. (1) The department
35 must implement, administer, and enforce this chapter. The department
36 may adopt rules to implement, administer, and enforce this chapter.

1 (2) (a) By September 1st of each year after a distributor
2 responsibility organization has notified the department of its intent
3 to implement a deposit return system under section 302 of this act,
4 the department must:

5 (i) Prepare a workload analysis that identifies the projected
6 annual costs to implement, administer, and enforce this chapter,
7 including rule making, in the next fiscal year;

8 (ii) Determine a total annual fee payment to be paid by each
9 distributor responsibility organization consistent with section
10 304(5) of this act that is adequate to cover, but not exceed, the
11 costs identified in (a)(i) of this subsection and one-half of the
12 costs of:

13 (A) Any performance rates studies or updates, as established in
14 section 105 of this act; and

15 (B) Support and facilitation of the advisory council created in
16 section 121 of this act;

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

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

25 (v) Send notice to distributor responsibility organizations of
26 fee 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 required payments for the coming fiscal year
35 to cover the costs identified under (a)(ii) of this subsection, if
36 the collected annual payment was less than the amount required to
37 cover those costs for a given year.

38 (3) The department shall approve the registration of a
39 distributor responsibility organization submitted pursuant to section
40 304 of this act whose initial membership at the time of registration

1 represents, to the department's satisfaction, the distributors of a
2 majority of beverages in qualifying beverage containers sold or made
3 available for sale in Washington the prior year or the registration
4 of a distributor acting as a distributor responsibility organization.
5 Except for an individual distributor fulfilling the distributor
6 responsibility organization, the department may not approve the
7 registration of a distributor responsibility organization whose
8 initial membership at the time of registration does not represent the
9 distributors of a majority of beverages in qualifying beverage
10 containers sold or made available for sale in Washington the prior
11 year.

12 (4) The department must review new, updated, and revised plans
13 submitted by distributor responsibility organizations as required in
14 section 309 of this act. The department must:

15 (a) Make new, updated, and revised plans available for public
16 review and comment for at least 30 days prior to the department's
17 approval decision;

18 (b) Review new, updated, and revised distributor responsibility
19 organization plans within 120 days of receipt of a complete plan;

20 (c) Make a determination as to whether or not to approve a plan,
21 plan update, or plan revision and notify the distributor
22 responsibility organization of the:

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

26 (ii) Reasons for not approving a plan. The distributor
27 responsibility organization must submit a new or revised plan within
28 60 days after receipt of the letter of disapproval. In the event that
29 a new or revised plan submitted by a distributor responsibility
30 organization does not sufficiently meet the requirements of this
31 chapter, including any deficiencies identified in the initial letter
32 of disapproval, the department may:

33 (A) Use the enforcement powers specified in section 319 of this
34 act; or

35 (B) Amend the contents of the insufficient new or revised plan in
36 a manner that ensures that the plan meets the requirements of this
37 chapter and the department may require the distributor responsibility
38 organization to implement the plan as amended by the department;

1 (d) The approval of a plan by the department does not relieve
2 distributors participating in the plan from responsibility for
3 fulfilling the requirements of this chapter.

4 (5) The department must review annual reports submitted by
5 distributor responsibility organizations as required in section 311
6 of this act. The department must:

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

10 (b) Review within 120 days of receipt of a complete annual
11 report;

12 (c) Make a determination as to whether or not an annual report
13 meets the requirements of section 311 of this act and notify the
14 producer responsibility organization of the:

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

16 (ii) Reasons for not approving the annual report. The distributor
17 responsibility organization must submit a revised annual report
18 within 60 days after receipt of the letter of disapproval;

19 (d) Notify a distributor responsibility organization if the
20 annual report demonstrates that the program and activities to
21 implement the plan fail to achieve the performance rates approved by
22 the department or otherwise fail to achieve significant requirements
23 under this chapter.

24 (6) In order to determine compliance with this chapter, the
25 department may review the records of a distributor responsibility
26 organization.

27 (7) If in the course of a review described in subsection (6) of
28 this section the department determines that an audit of a distributor
29 responsibility organization is necessary to verify the redemption
30 rate, the department shall require the distributor responsibility
31 organization to retain an independent audit firm to determine the
32 accuracy of the redemption rate. A distributor responsibility
33 organization that is subject to review must pay the costs of the
34 audit.

35 (8) (a) The department shall create and administer a curbside
36 revenue augmentation fund which must, for the first five years in
37 which a distributor responsibility organization operates a deposit
38 return system in the state:

39 (i) Collect funds from a distributor responsibility organization
40 as described in this section; and

1 (ii) Beginning January 1st of the year following the year in
2 which a distributor responsibility organization first operates a
3 deposit return system in the state, and each January 1st for the
4 following four years, accept requests annually from local
5 governments, or operators of curbside recycling programs in the
6 state, or both, to receive funds from the curbside revenue
7 augmentation fund to offset revenue losses from the previous year.
8 These requests must include third-party audited financial data
9 demonstrating any revenue losses from the value of scrap materials
10 diverted from curbside recycling by a deposit return system, less any
11 decreased operating costs from not collecting, hauling, processing,
12 or landfilling the material. Each request must include the average
13 per household weight of material by type (glass, plastic, and metal)
14 for that applicant for the five years preceding the operation of a
15 deposit return system in the state, compared to the average household
16 weight of material by type for the year prior to the year in which
17 funds are requested.

18 (b) The department shall:

19 (i) Evaluate all requests annually and determine the validity of
20 the data submitted by each requester;

21 (ii) Reject requests that do not include sufficient or
22 sufficiently accurate data;

23 (iii) Distribute funds to operators of curbside recycling systems
24 proportionally, based on valid requests and available revenue in the
25 fund; and

26 (iv) If the total amount of requests deemed valid by the
27 department is less than the amount of funds available each year, less
28 the department's program funding described in subsection (2) of this
29 section, the department shall remit the remaining balance back to the
30 distributor responsibility organization.

31 NEW SECTION. **Sec. 308.** REUSE AND RECYCLING PERFORMANCE
32 REQUIREMENTS. (1) To meet the reuse and recycling performance
33 requirements established in this section, a distributor
34 responsibility organization must:

35 (a) Demonstrate that all qualifying beverage containers
36 distributed by its member distributors are designed to be reusable or
37 recyclable by January 1, 2031, in accordance with criteria
38 established by the department;

1 (b) Calculate the reuse and recycling rates of qualifying
2 beverage containers and provide the verification to the department as
3 part of the annual reporting requirements. For materials reclaimed
4 under a deposit return system, the calculation point for the
5 redemption rate is the number of qualifying beverage containers
6 redeemed statewide by the distributor responsibility organization
7 divided by the number of qualifying beverage containers sold in the
8 state by members of the distributor responsibility organization.

9 (2) At a minimum, each plan must achieve the following
10 performance requirements:

11 (a) By 2028, a minimum of 60 percent of all qualifying beverage
12 containers supplied into the state by its member distributors are
13 reused or recycled through the deposit return system;

14 (b) By 2031, a minimum of 80 percent of all qualifying beverage
15 containers supplied into the state by its member distributors are
16 reused or recycled through the deposit return system;

17 (c) (i) By 2028, a minimum of 5 percent of all qualifying beverage
18 containers sold into the state by its member distributors are
19 reusable;

20 (ii) By 2030, a minimum of 10 percent of all qualifying beverage
21 containers sold into the state are reusable; and

22 (iii) By 2035, a minimum of 25 percent of all qualifying beverage
23 containers sold into the state are reusable.

24 (3) To be included in a performance rate calculation for purposes
25 of this chapter, recycled materials must be transferred to a
26 responsible end market.

27 NEW SECTION. **Sec. 309.** DEPOSIT RETURN SYSTEM PLAN. (1) No later
28 than 12 months after a distributor responsibility organization has
29 been approved by the department pursuant to section 307 of this act,
30 the distributor responsibility organization must submit a deposit
31 return system plan to the department.

32 (2) The deposit return system plan must:

33 (a) Impose a refund value for all qualifying beverage containers
34 covered under the plan, consistent with section 305 of this act;

35 (b) Identify methods for collecting qualifying beverage
36 containers from consumers and for paying consumers the refund value
37 of the qualifying beverage containers;

38 (c) Include a process for accepting direct, sorted returns for an
39 additional refund value premium if the containers are returned by a

1 501(c)(3) organization that is approved by the distributor
2 responsibility organization and serve very low-income individuals who
3 rely on regular container refunds through the deposit return system
4 as a source of daily funds;

5 (d) Identify the governing board members of the distributor
6 responsibility organization;

7 (e) List and explain the qualifying beverage containers supplied
8 or sold in or into Washington by each member distributor and their
9 brands of beverages participating in the plan;

10 (f) Describe how the distributor responsibility organization will
11 use and interact with recycling programs and infrastructure that
12 predate the implementation of the plan;

13 (g) Include a list and description of qualifying beverage
14 container reuse and refill collection systems and processing
15 infrastructure;

16 (h) Describe activities to be undertaken to make convenient
17 collection services available for covered products in accordance with
18 the convenience standards established under section 310 of this act;

19 (i) Describe activities to be undertaken to implement the
20 education and outreach component as required under section 316 of
21 this act;

22 (j) Describe activities to be undertaken to minimize the amount
23 and cost of residual nonrecyclable materials from the collection and
24 processing of qualifying beverage containers. These include residual
25 nonrecyclable materials from material recovery facilities or similar
26 facilities producing specification grade commodities for sale, but do
27 not include residuals from further processing of end market-ready
28 material;

29 (k) Describe activities to be undertaken to develop or support
30 responsible end markets for qualifying beverage containers;

31 (l) Describe how plan implementation will maintain responsible
32 management practices for qualifying beverage containers through to
33 final disposition and ensure that any qualifying beverage containers
34 collected for recycling will be delivered to a responsible end
35 market;

36 (m) Include a stakeholder consultation report, as described in
37 section 315 of this act;

38 (n) Describe how the distributor responsibility organization will
39 coordinate with producer responsibility organizations under chapter
40 70A.--- RCW (the new chapter created in section 601 of this act) and

1 other distributor responsibility organizations in the state, in
2 specific terms;

3 (o) Include the contingency plan described in section 317 of this
4 act; and

5 (p) Include any other information to be included in the plan as
6 required by the department by rule.

7 (3) (a) The initial plans due to be submitted under this section
8 may address no more than three calendar years, dating from the date
9 on which the plan is due to be submitted to the department. Within
10 two years of implementation of its initial plan, a distributor
11 responsibility organization must submit an updated plan for the
12 following five calendar years to address changes in the operations
13 and activities of the program.

14 (b) For plans other than those described in (a) of this
15 subsection, a distributor responsibility organization must submit a
16 plan to the department that addresses five calendar years of
17 operation, dating from the date on which the plan is due to be
18 submitted to the department. A plan is valid for no more than five
19 years.

20 (c) For all subsequent plans submitted after the initial plan, a
21 distributor responsibility organization must submit to the
22 department, one year prior to the expiration of the plan, an updated
23 plan for the following five calendar years of operation to address
24 changes in the operations and activities of the program.

25 (d) If the performance rates set in section 308 of this act have
26 not been met as of the time of plan update, the distributor
27 responsibility organization must arrange for an independent
28 evaluation to be conducted of the distributor responsibility
29 organization's efforts to implement the plan approved by the
30 department. The evaluation must provide information for the
31 distributor responsibility organization to use to target and improve
32 program outcomes relative to the proposed and approved performance
33 rates.

34 (e) A distributor responsibility organization must carry out the
35 consultation process established in section 315 of this act prior to
36 the submission of each plan and plan update. The consultation process
37 established in section 315 of this act is not required to be carried
38 out by a distributor responsibility organization that is submitting a
39 revised plan:

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

1 (ii) Subsequent to a letter disapproving of a plan submission by
2 the distributor responsibility organization and for which the
3 original plan submitted by the distributor responsibility
4 organization had been subject to the consultation process required in
5 section 315 of this act.

6 (4) (a) A distributor responsibility organization may choose to
7 update its plan if significant changes have occurred.

8 (b) The department may require a distributor responsibility
9 organization to update its plan more frequently than every five years
10 if:

11 (i) The program and activities to implement the plan fail to
12 achieve the performance rates set in section 308 of this act or
13 otherwise fail to achieve significant requirements under this
14 chapter;

15 (ii) Additional distributor responsibility organizations register
16 with the department or receive approval from the department to begin
17 implementing a plan; or

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

20 NEW SECTION. **Sec. 310.** OPERATION OF DEPOSIT RETURN SYSTEM.

21 (1) (a) The distributor responsibility organization approved by the
22 department must, at its own cost, provide a convenient bulk drop-off
23 option for bagged qualifying beverage containers at geographically
24 dispersed locations in Washington. The drop-off locations must be at
25 locations convenient to locations that sell beverages in qualifying
26 beverage containers, but nothing in this chapter may be interpreted
27 to create a legal obligation on the part of dealers either to accept
28 returned qualifying beverage containers or to allow a drop-off
29 location to be sited at the dealer.

30 (b) The distributor responsibility organization may not charge
31 customers for the drop-off service and must credit the cost of any
32 required bag purchase back to the customer when the bag is processed.
33 If drop-off bags are made of plastic film, the bags must have a
34 minimum 50 percent recycled content and the distributor
35 responsibility organization must be able to demonstrate that waste
36 film from bags is being recycled in the best commercially available
37 manner.

38 (c) Every distributor responsibility organization must identify
39 in its plan and on its website, in appropriate languages, maps of

1 each area where drop-off and other collection services for qualifying
2 beverage containers are available, a list and map of the location of
3 each permanent collection opportunity for qualifying beverage
4 containers, and the types and a list and map of locations of
5 alternate collection methods used.

6 (2) The distributor responsibility organization must establish at
7 least 270 bag drop-off sites around the state of Washington,
8 distributed by county in proportion to the volume of qualifying
9 beverage containers sold in the county. Bag drop-off sites may be
10 located at dealers, or any other publicly owned facility convenient
11 to a dealer, but nothing in this chapter may be interpreted to create
12 a legal obligation on the part of dealers, retail establishments, or
13 publicly owned facilities either to accept returned qualifying
14 beverage containers or to allow a bag drop-off site to be sited at
15 the dealer or publicly owned facility. All sites must be paid for in
16 full by the distributor responsibility organization.

17 (3) The distributor responsibility organization is not required
18 to accept or pay refunds for:

19 (a) Any beverage container that visibly contains or is
20 contaminated by a substance other than water, residue of the original
21 contents, or ordinary dust;

22 (b) Any beverage container that is crushed, broken, or damaged to
23 the extent that the brand appearing on the container cannot be
24 identified; or

25 (c) Any beverage container for which the distributor
26 responsibility organization has evidence was not purchased through
27 the state's deposit return system, or for which a refund has already
28 been given.

29 (4) If the distributor responsibility organization uses automated
30 industrial counting equipment to count containers returned in bulk
31 and credit refund values to consumers, the distributor responsibility
32 organization may use commercially viable methods of counting and must
33 have a customer service system to serve as the remedy in the case of
34 discrepancies.

35 (5) The distributor responsibility organization may create
36 reasonable terms and conditions for participation in the program.

37 (6) Distributor responsibility organizations, government
38 entities, and service providers implementing the deposit return
39 system must manage qualifying beverage containers in a manner

1 consistent with the state's solid waste management hierarchy
2 established in RCW 70A.205.005.

3 (7) Qualifying beverage containers collected by the deposit
4 return system must be responsibly managed at facilities operating
5 with human health and environmental protection standards that are
6 broadly equivalent to or better than those required in the United
7 States and other countries that are members of the organization for
8 economic cooperation and development.

9 (8) Distributor responsibility organizations implementing a plan
10 must include measures to:

11 (a) Track, verify, and publicly report that the responsible
12 management of qualifying beverage containers collected by the deposit
13 return system is maintained and that recycled materials are delivered
14 to a responsible end market;

15 (b) Promote and facilitate reuse of qualifying beverage
16 containers designed to be reused;

17 (c) Meet the necessary quality standards for recycled materials
18 so that qualifying beverage containers collected by the program may
19 be used to manufacture new products;

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

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

26 (9) (a) Prior to deposit return use of any alternative recycling
27 process for conversion of postuse plastic polymers for the purpose of
28 producing recycled material to be counted toward performance target
29 rates under this chapter, the distributor responsibility organization
30 must seek the department's approval and submit a third-party
31 assessment of the process's environmental impacts, as described under
32 this subsection. In order for an alternative recycling process to be
33 approved, the department must determine, after considering public
34 comment and input from the advisory council, that the alternative
35 recycling process produces similar or lesser impacts than those
36 produced in recycling that uses purely mechanical means for each of
37 the following environmental impacts:

38 (i) Air and water pollution and release or creation of any
39 hazardous pollutants;

40 (ii) Energy efficiency and greenhouse gas emissions;

1 (iii) Generation of hazardous waste;

2 (iv) Environmental impacts on overburdened communities and
3 vulnerable populations as identified by the department under chapter
4 70A.02 RCW;

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

7 (vi) Other environmental impacts as determined by the department
8 by rule.

9 (b) The results of the assessment under (a) of this subsection
10 must, whenever reported and communicated, provide full disclosure of
11 geographical, temporal, and technological boundaries that have been
12 selected for the assessment.

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

17 (10) To facilitate recycling of covered products back into
18 covered products and encourage development of circular economic
19 activity in the state and region, material recovery facilities and
20 other processing facilities handling materials under the program
21 shall prioritize agreements with and on behalf of distributor or
22 distributor responsibility organizations regarding long-term
23 contracts and other purchase agreements based on fair market pricing
24 for commodities of comparable quality.

25 (11) Distributor responsibility organizations must coordinate
26 with other distributor responsibility organizations in Washington or
27 other states and producer responsibility organizations in Washington
28 or other states to provide reimbursement and ensure that government
29 entities and service providers are reimbursed for recycling services
30 as required under this chapter, and to ensure that qualifying
31 beverage containers are not reported as supplied or managed by more
32 than one organization.

33 NEW SECTION. **Sec. 311.** REPORTING. (1) Beginning July 1st of the
34 year after an approved program begins to be implemented, and each
35 July 1st thereafter, a distributor responsibility organization must
36 submit an annual report to the department for the preceding calendar
37 year of plan implementation. Each annual report must include data,
38 descriptions, and other information sufficient to allow the
39 department to determine whether a distributor responsibility

1 organization has fulfilled its obligations under this chapter during
2 the preceding calendar year, including actions identified by the
3 distributor responsibility organization to be undertaken as part of
4 the plan submitted under section 309 of this act, and actions to
5 implement the requirements and other provisions of this chapter.

6 (2) Each annual report must include the following information:

7 (a) A list of the member distributors within the distributor
8 responsibility organization;

9 (b) A list and explanation of the beverages in qualifying
10 beverage containers supplied or sold in or into Washington to
11 consumers by members of the distributor responsibility organization
12 and the brands of qualifying beverage containers participating in the
13 deposit return system;

14 (c) The number of qualifying beverage containers supplied into
15 the state in aggregate, and by material categories of glass, metal,
16 and plastic, by members of the distributor responsibility
17 organization, as determined by an independent financial audit in
18 conjunction with (k) of this subsection;

19 (d) The number of qualifying beverage containers returned in
20 aggregate, and by material categories of glass, metal, and plastic,
21 through the deposit return system operated by the distributor
22 responsibility organization;

23 (e) The final destinations of all recycled material managed by
24 the program;

25 (f) The annual redemption rate in aggregate, and by material
26 categories of glass, metal, and plastic;

27 (g) When applicable, the annual proportion of reused containers;

28 (h) The number, distribution, and location of container return
29 locations in the state;

30 (i) The total annual budget for the distributor responsibility
31 organization;

32 (j) The total value of unclaimed refunds;

33 (k) The total cost of implementing the deposit return system, as
34 determined by an independent financial audit and performed by an
35 independent auditor, including:

36 (i) Information regarding the independently audited financial
37 statements detailing all payments received and issued by the
38 distributor responsibility organization covered by the deposit return
39 system under the plan approved by the department;

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

1 (iii) A detailed description of the infrastructure investments
2 made consistent with section 312 of this act.

3 NEW SECTION. **Sec. 312.** UNCLAIMED REFUNDS. The entire value of
4 unclaimed refunds collected under this chapter, whether held or
5 retained by distributors or by the distributor responsibility
6 organization, must be invested in operations and infrastructure
7 supporting the reuse and recycling of qualifying beverage containers
8 in Washington. The distributor responsibility organization shall
9 provide audited financial details to demonstrate that the distributor
10 responsibility organization's infrastructure and operating budget is
11 greater than the value of 100 percent of the unclaimed refunds.

12 NEW SECTION. **Sec. 313.** PAYMENT OF DEPOSIT FOR COLLECTION USING
13 OTHER INFRASTRUCTURE AND SERVICE PROVIDER AGREEMENTS. (1) The
14 distributor responsibility organization must accept, and must pay the
15 full refund value for, any qualifying beverage containers presented
16 to it by material recovery facilities, government entities, and other
17 processing facilities handling recyclable materials as long as the
18 qualifying beverage containers have been collected and separated in
19 accordance with standards established by the distributor
20 responsibility organization, and those standards have been approved
21 by the department. The methodology for determining the amount of
22 beverage containers presented for redemption by government entities,
23 material recovery facilities, and other processing facilities
24 handling recyclable materials must include periodic third-party
25 auditing and verification. Redemption of any qualifying beverage
26 containers collected through services for which a producer
27 responsibility organization established under chapter 70A.--- RCW
28 (the new chapter created in section 602 of this act) provides
29 reimbursement must be reported to the producer responsibility
30 organization and may be factored into reimbursement rates as
31 specified by the producer responsibility organization plan approved
32 by the department.

33 (2) Service provider agreements between distributor
34 responsibility organizations and government entities under this
35 chapter are limited in scope to authorizing the reimbursement of
36 costs and any other services included in a distributor responsibility
37 organization plan that are to be carried out by a government entity.
38 A distributor responsibility organization may not make a government

1 entity's reimbursement under this chapter contingent upon the
2 performance of activities or the fulfillment of terms or conditions
3 that are not specified as a duty of government entities under this
4 chapter or required under a plan approved under this chapter.

5 (3) A distributor responsibility organization that enters into
6 contractual agreements with service providers to carry out producer
7 responsibilities under this chapter must:

8 (a) Use open, competitive, and fair procurement practices;

9 (b) Provide opportunities for women, minority, or veteran-owned
10 businesses, small businesses, and independent operators to
11 participate as service providers;

12 (c) Require that all contracted service providers:

13 (i) Meet minimum operating standards, including the requirements
14 of this chapter and chapter 70A.205 RCW;

15 (ii) Meet high labor standards, including family level wages,
16 providing benefits including health care and retirement plans or
17 contributions, and demonstrate procurement from and contracts with
18 women, minority, or veteran-owned businesses; and

19 (iii) Provide fair opportunities regardless of ethnicity, race,
20 gender, age, disability, religion, sexual orientation, or national
21 origin; and

22 (d) Require that contracted service providers maintain records
23 and provide the producer responsibility organization with verifiable
24 chain of custody documentation up to the point of final disposition,
25 reporting parameters for material recovery facilities and other
26 processing facilities under section 110 of this act, and other
27 documentation necessary to evaluate the performance relative to the
28 requirements of this chapter. The producer responsibility
29 organization must submit the records and documentation required under
30 this subsection to the department, upon request by the department.

31 (4) The department must consult with other state agencies in any
32 review of the distributor responsibility organization's consistency
33 with the standards established in this section.

34 NEW SECTION. **Sec. 314.** DROP ACCOUNT. The deposit return
35 organization program account is created in the custody of the state
36 treasury. All receipts received by the department under this chapter
37 must be deposited in the account. Expenditures from the account may
38 be used by the department only for implementing, administering, and
39 enforcing the requirements of this chapter. Only the director of the

1 department or the director's designee may authorize expenditures from
2 the account. The account is subject to the allotment procedures under
3 chapter 43.88 RCW, but an appropriation is not required for
4 expenditures.

5 NEW SECTION. **Sec. 315.** STAKEHOLDER CONSULTATION. (1) Each
6 distributor of qualifying beverage containers must participate in,
7 implement, and fund a distributor responsibility organization plan
8 approved by the department.

9 (2) A distributor responsibility organization that is registered
10 with the department must develop and maintain a public website with
11 enhanced language access informing the public of plan implementation
12 details, including collection services and locations for each type of
13 qualifying beverage containers, and a current list of all member
14 producers and brands of beverages participating in the plan.

15 (3) Prior to submitting a new, updated, or revised plan to the
16 department, a distributor responsibility organization must conduct a
17 consultation process to directly and actively involve stakeholders in
18 development of key plan elements established in section 309 of this
19 act. The distributor responsibility organization, through the
20 consultation process, must solicit and respond to input and
21 recommendations from the advisory council established in section 121
22 of this act and other stakeholders. At a minimum, the consultation
23 process must include:

24 (a) Quarterly meetings open to the public with the advisory
25 council subject to the requirements of chapter 42.30 RCW throughout
26 the plan development process to discuss and review key plan elements;

27 (b) Consultation on the reimbursement rates to be used for any
28 services other than curbside collection that are to be carried out by
29 government entities and that may be included in producer
30 responsibility organization plans;

31 (c) Consultation on the service agreement template and any other
32 forms, contracts, or documents outlining the terms and conditions for
33 reimbursement to government entities for services delivered in
34 accordance with the requirements of this chapter;

35 (d) Opportunities for all stakeholders, including the advisory
36 council created in section 121 of this act, and members of the public
37 to provide comment on the plan for no less than 30 days prior to its
38 submission to the department;

1 (e) Presentations in various formats and languages as necessary
2 for soliciting meaningful input on the plan and receiving comments
3 including workshops, surveys, webinars, and one-on-one meetings; and

4 (f) Documentation of all comments received from the advisory
5 council created in section 121 of this act and other stakeholders,
6 and a summary of responses provided by the distributor responsibility
7 organization for purposes of a stakeholder consultation report to be
8 included with the submission of a plan to the department. The
9 stakeholder consultation report must also describe each forum in
10 which comments or input was received and how it was addressed in the
11 plan.

12 NEW SECTION. **Sec. 316.** EDUCATION AND OUTREACH. (1) Each plan
13 implemented by a distributor responsibility organization under this
14 chapter must include education and outreach activities that
15 effectively reach diverse residents, are accessible, are clear, and
16 support the achievement of the performance rates set in distributor
17 responsibility organization plans as described in section 309 of this
18 act. To implement the education and outreach activities described in
19 the plan, a distributor responsibility organization must, at minimum:

20 (a) Develop and provide outreach and educational materials,
21 resources, and campaigns about the program to be used by dealers,
22 government entities, and nonprofit organizations. The materials,
23 resources, and campaigns developed under this section must encourage
24 participation in recycling collection and reuse and refill systems
25 and must achieve:

26 (i) Education and engagement with residents on recycling, reuse,
27 and refill practices;

28 (ii) Outreach to obtain consistently high levels of public
29 participation in and use of the deposit return system and reuse and
30 refill systems, including where and how to redeem qualifying beverage
31 containers, or return or refill reusable covered products; and

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

34 (b) Coordinate and fund the distribution and deployment of
35 statewide promotional campaigns developed under this section through
36 media channels that may include, but are not limited to, print
37 publications, radio, television, the internet, and online streaming
38 services;

1 (c) Use consistent and easy to understand messaging and education
2 statewide, with the aim of reducing resident confusion regarding the
3 recyclability, reuse, compostability, and end-of-life management
4 options available for different qualifying beverage containers;

5 (d) Be conceptually, linguistically, and culturally accurate for
6 the communities served and tailored to effectively reach the state's
7 diverse populations, including through meaningful consultation with
8 overburdened communities and vulnerable populations;

9 (e) Establish a process for answering customer questions and
10 resolving customer concerns; and

11 (f) Evaluate the effectiveness of education and outreach efforts
12 for the purposes of making progress toward performance requirements
13 established in this chapter.

14 (2)(a) A distributor responsibility organization must coordinate
15 with government entities that choose to participate in carrying out
16 resident education and outreach in accordance with the approach
17 specified in the distributor responsibility organization's plan.

18 (b) All distributor responsibility organizations implementing a
19 plan approved by the department must collaborate to present a
20 consistent statewide program to ensure that all state residents can
21 easily identify, understand, and access services provided by any
22 approved distributor responsibility organization. The department may
23 require distributor responsibility organizations to coordinate and
24 use consistent signage and consistent messaging in education and
25 outreach activities under this section.

26 NEW SECTION. **Sec. 317.** CONTINGENCY PLAN. (1) A distributor
27 responsibility organization must submit to the department a
28 comprehensive contingency plan demonstrating how the activities in
29 the plan will continue to be carried out by some other entity, if
30 needed, such as an escrow company:

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

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

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

1 (d) In the event that the distributor responsibility organization
2 notifies the department that it will cease to implement an approved
3 plan; or

4 (e) In any other event that the distributor responsibility
5 organization can no longer carry out plan implementation.

6 (2) The contingency plan required in this section must be
7 submitted to the department as a component of the distributor
8 responsibility organization's initial plan submitted to the
9 department under section 309 of this act. The department may require
10 a distributor responsibility organization to update the contingency
11 plan required under this section coincident with any plan update
12 under section 309 of this act.

13 (3) The department must follow the same process and timelines for
14 reviewing and approving the contingency plan as it follows for
15 reviewing and approving the distributor responsibility organization's
16 program plan under section 309 of this act.

17 NEW SECTION. **Sec. 318.** DAMAGES FOR FAILURE TO PAY REFUND VALUE.
18 Unless otherwise specified in a distributor responsibility
19 organization's bylaws or in a contract between a distributor
20 responsibility organization and an individual distributor arranging
21 specifically for the collection of beverage containers sold for the
22 purpose of consumption on premises, any manufacturer, distributor, or
23 importer that fails to pay to the distributor responsibility
24 organization the refund value of beverage containers included in this
25 chapter is liable to the distributor responsibility organization for
26 treble the unpaid refund value and treble the collection costs
27 incurred by the distributor responsibility organization for any
28 beverage containers that were sold without the refund value of the
29 container being remitted to the distributor responsibility
30 organization.

31 NEW SECTION. **Sec. 319.** CIVIL PENALTIES. (1) The distributor
32 responsibility organization shall pay a penalty to the department
33 equal to 10 cents for every unredeemed container under the
34 performance requirements set forth in section 308(2) of this act.

35 (2) In addition to the penalties prescribed in subsection (1) of
36 this section, the department may administratively impose a civil
37 penalty of up to \$1,000 per violation per day on any person who
38 violates this chapter or on any distributor responsibility

1 organization who violates the postconsumer recycled content
2 provisions applicable to distributor responsibility organizations
3 under chapter 70A.--- RCW (the new chapter created in section 602 of
4 this act) and up to \$10,000 per violation per day for the second and
5 each subsequent violation.

6 (3) Upon the department notifying a distributor responsibility
7 organization that it has not met a significant requirement of this
8 chapter or chapter 70A.--- RCW (the new chapter created in section
9 602 of this act), the department may, in addition to assessing the
10 penalties provided in subsections (1) and (2) of this section, take
11 any combination of the following actions:

12 (a)(i) Issue corrective action orders to a distributor or
13 distributor responsibility organization;

14 (ii) Issue orders to a distributor responsibility organization to
15 provide for the continued implementation of the program in the
16 absence of an approved plan;

17 (b) Revoke the distributor responsibility organization's plan
18 approval and require the distributor responsibility organization to
19 implement its contingency plan under section 317 of this act;

20 (c) Require a distributor responsibility organization to revise
21 or resubmit a plan within a specified time frame; or

22 (d) Require additional reporting related to compliance with the
23 significant requirements of this chapter that was not met.

24 (4) Prior to taking the actions described in subsection (3)(b) of
25 this section, the department must provide the distributor
26 responsibility organization or the producer an opportunity to respond
27 to or rebut the written finding upon which the action is predicated.

28 (5)(a) After October 1st of the first year in which a distributor
29 responsibility organization is registered with the department, and
30 after notification of noncompliance from the department and a 60-day
31 period in which the distributor responsibility organization has the
32 opportunity to remedy the noncompliance, the department shall
33 administratively impose a civil penalty once per year to any
34 distributor that fails to participate in a distributor responsibility
35 organization as specified in section 304 of this act, which is the
36 greater of 10 cents per qualifying beverage container sold or made
37 available for sale by that distributor in the state, or \$10,000.

38 (b) Any distributor that incurs a penalty or order under this
39 section may appeal the penalty to the pollution control hearings
40 board established in chapter 43.21B RCW.

1 (6) Penalties levied under this section must be deposited into
2 the recycling enhancement account created in RCW 70A.245.100 .

3 NEW SECTION. **Sec. 320.** FEASIBILITY STUDY. (1) By December 1,
4 2025, the department of ecology must complete and publish on its
5 website the feasibility analysis described in this section.

6 (a) The purpose of the feasibility analysis is to:

7 (i) Identify options to improve the convenience experienced by
8 consumers with unwanted products or packaging covered by state
9 product stewardship, extended producer responsibility, and similar
10 takeback programs, by harmonizing or establishing a system of common
11 or centralized takeback centers or depots for consumers; and

12 (ii) Consider the viability, costs, and tradeoffs associated with
13 each option that might lead to improved outcomes for consumers and
14 improved end-of-life management outcomes for covered unwanted
15 products.

16 (b) The department of ecology must deliver policy recommendations
17 to the legislature by December 1, 2025.

18 (2) The department of ecology must consult with the department of
19 health for purposes of considering the potential for integration of
20 collection infrastructure under chapter 69.48 RCW with the collection
21 infrastructure of other state programs.

22 (3) The feasibility analysis required under this section must:

23 (a) Be conducted by an independent third party selected by the
24 department;

25 (b) Consider the following:

26 (i) Existing common collection infrastructure models used by
27 other jurisdictions;

28 (ii) Existing voluntary and contractually established collection
29 infrastructure currently used to collect unwanted products and
30 packaging in Washington; and

31 (iii) Options to deploy curbside collection systems for the
32 specialized collection of products;

33 (c) Include policy recommendations to the legislature to improve
34 consumer convenience and improve environmental end-of-life management
35 outcomes for any combination of products and packaging covered by
36 extended producer responsibility programs, takeback programs, or
37 product stewardship programs;

38 (i) The policy recommendations must consider:

1 (A) Beverage containers covered by the deposit return
2 requirements of chapter 70A.--- RCW (the new chapter created in
3 section 603 of this act);

4 (B) Covered products under chapter 70A.--- RCW (the new chapter
5 created in section 601 of this act);

6 (C) Covered drugs under chapter 69.48 RCW;

7 (D) Covered electronic products under chapter 70A.500 RCW;

8 (E) Mercury-containing lights under chapter 70A.505 RCW;

9 (F) Photovoltaic modules under chapter 70A.510 RCW; and

10 (G) Architectural paint under chapter 70A.515 RCW.

11 (ii) Any policy recommendations for changes to the collection of
12 products covered by programs identified in (c)(i) of this subsection
13 should consider:

14 (A) Whether and how to amend convenience standards established
15 under each program, including the types of curbside, drop off, event,
16 and public and private infrastructure that serves as collection
17 infrastructure; and

18 (B) Whether and how to specify that producers of products covered
19 by programs recommended for inclusion in the creation of a common
20 collection system be required to fund the establishment of the common
21 collection infrastructure; and

22 (d) Include an opportunity for public input on the feasibility
23 study and on any draft recommendations.

24 NEW SECTION. **Sec. 321.** LITTER TAX STUDY. (1) In consultation
25 with producer responsibility organizations registered with the
26 department of ecology under chapter 70A.--RCW (the new chapter
27 created in section 601 of this act) and distributor responsibility
28 organizations under chapter 70A.--- RCW (the new chapter created in
29 section 603 of this act), the department of ecology and the
30 department of revenue must study:

31 (a) The impacts of producer and distributor requirements under
32 chapters 70A.--- (the new chapter created in section 601 of this act)
33 and 70A.--- RCW (the new chapter created in section 603 of this act)
34 on the litter rates of covered products and qualifying beverage
35 containers under those chapters; and

36 (b) Possible improvements to the structure of the litter tax
37 under chapter 82.19 RCW including, but not limited to,
38 administration, compliance, and distribution of the tax and

1 application of the tax to certain products, for achieving the purpose
2 of chapter 82.19 RCW.

3 (2) By January 1, 2029, the department of ecology, in
4 consultation with the department of revenue, must provide
5 recommendations to the appropriate committees of the legislature on:

6 (a) Applicability of the litter tax to covered products and
7 qualifying beverage containers, based on whether the purpose of the
8 litter tax under chapter 82.19 RCW is being achieved for those
9 products by the requirements of producers and distributors under
10 chapters 70A.--- (the new chapter created in section 601 of this act)
11 and 70A.--- RCW (the new chapter created in section 603 of this act);
12 and

13 (b) Improvements to the structure of the litter tax for meeting
14 the purposes of chapter 82.19 RCW.

15 **Part Four**
16 **Amendments to Solid Waste Management Laws**

17 **Sec. 401.** RCW 70A.205.005 and 2002 c 299 s 3 are each amended to
18 read as follows:

19 The legislature finds:

20 (1) Continuing technological changes in methods of manufacture,
21 packaging, and marketing of consumer products, together with the
22 economic and population growth of this state, the rising affluence of
23 its citizens, and its expanding industrial activity have created new
24 and ever-mounting problems involving disposal of garbage, refuse, and
25 solid waste materials resulting from domestic, agricultural, and
26 industrial activities.

27 (2) Traditional methods of disposing of solid wastes in this
28 state are no longer adequate to meet the ever-increasing problem.
29 Improper methods and practices of handling and disposal of solid
30 wastes pollute our land, air and water resources, blight our
31 countryside, adversely affect land values, and damage the overall
32 quality of our environment.

33 (3) Considerations of natural resource limitations, energy
34 shortages, economics and the environment make necessary the
35 development and implementation of solid waste recovery and/or
36 recycling plans and programs.

37 (4) Waste reduction must become a fundamental strategy of solid
38 waste management. It is therefore necessary to change manufacturing

1 and purchasing practices and waste generation behaviors to reduce the
2 amount of waste that becomes a governmental responsibility.

3 (5) Source separation of waste must become a fundamental strategy
4 of solid waste management. Collection and handling strategies should
5 have, as an ultimate goal, the source separation of all materials
6 with resource value or environmental hazard.

7 (6) (a) It should be the goal of every person and business to
8 minimize their production of wastes and to separate recyclable or
9 hazardous materials from mixed waste.

10 (b) It is the responsibility of state, county, and city
11 governments to provide for a waste management infrastructure to fully
12 implement waste reduction and source separation strategies and to
13 process and dispose of remaining wastes in a manner that is
14 environmentally safe and economically sound. It is further the
15 responsibility of state, county, and city governments to monitor the
16 cost-effectiveness and environmental safety of combusting separated
17 waste, processing mixed municipal solid waste, and recycling
18 programs.

19 (c) It is the responsibility of county and city governments to
20 assume primary responsibility for solid waste management and to
21 develop and implement aggressive and effective waste reduction and
22 source separation strategies.

23 (d) It is the responsibility of state government to ensure that
24 local governments are providing adequate source reduction and
25 separation opportunities and incentives to all, including persons in
26 both rural and urban areas, and nonresidential waste generators such
27 as commercial, industrial, and institutional entities, recognizing
28 the need to provide flexibility to accommodate differing population
29 densities, distances to and availability of recycling markets, and
30 collection and disposal costs in each community; and to provide
31 county and city governments with adequate technical resources to
32 accomplish this responsibility.

33 (e) It is the responsibility of producers to help provide for the
34 responsible management of their products.

35 (7) Environmental and economic considerations in solving the
36 state's solid waste management problems requires strong consideration
37 by local governments of regional solutions and intergovernmental
38 cooperation.

1 (8) The following priorities for the collection, handling, and
2 management of solid waste are necessary and should be followed in
3 descending order as applicable:

4 (a) Waste reduction;

5 (b) Recycling, with source separation of recyclable materials as
6 the preferred method;

7 (c) Energy recovery, incineration, or landfill of separated
8 waste;

9 (d) Energy recovery, incineration, or landfill of mixed municipal
10 solid wastes.

11 (9) It is the state's goal to achieve a (~~fifty~~) 50 percent
12 recycling rate by 2007.

13 (10) It is the state's goal that programs be established to
14 eliminate residential or commercial yard debris in landfills by 2012
15 in those areas where alternatives to disposal are readily available
16 and effective.

17 (11) Steps should be taken to make recycling at least as
18 affordable and convenient to the ratepayer as mixed waste disposal.

19 (12) It is necessary to compile and maintain adequate data on the
20 types and quantities of solid waste that are being generated and to
21 monitor how the various types of solid waste are being managed.

22 (13) Vehicle batteries should be recycled and the disposal of
23 vehicle batteries into landfills or incinerators should be
24 discontinued.

25 (14) Excessive and nonrecyclable packaging of products should be
26 avoided.

27 (15) Comprehensive education should be conducted throughout the
28 state so that people are informed of the need to reduce, source
29 separate, and recycle solid waste.

30 (16) All governmental entities in the state should set an example
31 by implementing aggressive waste reduction and recycling programs at
32 their workplaces and by purchasing products that are made from
33 recycled materials and are recyclable.

34 (17) To ensure the safe and efficient operations of solid waste
35 disposal facilities, it is necessary for operators and regulators of
36 landfills and incinerators to receive training and certification.

37 (18) It is necessary to provide adequate funding to all levels of
38 government so that successful waste reduction and recycling programs
39 can be implemented.

1 (19) The development of stable and expanding markets for
2 recyclable materials is critical to the long-term success of the
3 state's recycling goals. Market development must be encouraged on a
4 state, regional, and national basis to maximize its effectiveness.
5 The state shall assume primary responsibility for the development of
6 a multifaceted market development program to carry out the purposes
7 of chapter 431, Laws of 1989.

8 (20) There is an imperative need to anticipate, plan for, and
9 accomplish effective storage, control, recovery, and recycling of
10 discarded tires and other problem wastes with the subsequent
11 conservation of resources and energy.

12 **Sec. 402.** RCW 70A.205.010 and 2005 c 394 s 2 are each amended to
13 read as follows:

14 The purpose of this chapter is to establish a comprehensive
15 statewide program for solid waste handling, and solid waste recovery
16 and/or recycling which will prevent land, air, and water pollution
17 and conserve the natural, economic, and energy resources of this
18 state. To this end it is the purpose of this chapter:

19 (1) To assign primary responsibility for adequate solid waste
20 handling to local government, reserving to the state, however, those
21 functions necessary to assure effective programs throughout the
22 state, and sharing with producers' responsibility for the management
23 of their covered products under chapter 70A.--- RCW (the new chapter
24 created in section 601 of this act);

25 (2) To provide for adequate planning for solid waste handling by
26 local government;

27 (3) To provide for the adoption and enforcement of basic minimum
28 performance standards for solid waste handling, including that all
29 sites where recyclable materials are generated and transported from
30 shall provide a separate container for solid waste;

31 (4) To encourage the development and operation of waste recycling
32 facilities needed to accomplish the management priority of waste
33 recycling, to promote consistency in the requirements for such
34 facilities throughout the state, and to ensure that recyclable
35 materials diverted from the waste stream for recycling are routed to
36 facilities in which recycling occurs;

37 (5) To provide technical and financial assistance to local
38 governments in the planning, development, and conduct of solid waste
39 handling programs;

1 (6) To encourage storage, proper disposal, and recycling of
2 discarded vehicle tires and to stimulate private recycling programs
3 throughout the state; and

4 (7) To encourage the development and operation of waste recycling
5 facilities and activities needed to accomplish the management
6 priority of waste recycling and to promote consistency in the
7 permitting requirements for such facilities and activities throughout
8 the state.

9 It is the intent of the legislature that local governments be
10 encouraged to use the expertise of private industry and to contract
11 with private industry to the fullest extent possible to carry out
12 solid waste recovery and/or recycling programs.

13 **Sec. 403.** RCW 70A.205.045 and 2020 c 20 s 1163 are each amended
14 to read as follows:

15 Each county and city comprehensive solid waste management plan
16 shall include the following:

17 (1) A detailed inventory and description of all existing solid
18 waste handling facilities including an inventory of any deficiencies
19 in meeting current solid waste handling needs.

20 (2) The estimated long-range needs for solid waste handling
21 facilities projected twenty years into the future.

22 (3) A program for the orderly development of solid waste handling
23 facilities in a manner consistent with the plans for the entire
24 county which shall:

25 (a) Meet the minimum functional standards for solid waste
26 handling adopted by the department and all laws and regulations
27 relating to air and water pollution, fire prevention, flood control,
28 and protection of public health;

29 (b) Take into account the comprehensive land use plan of each
30 jurisdiction;

31 (c) Contain a six year construction and capital acquisition
32 program for solid waste handling facilities; and

33 (d) Contain a plan for financing both capital costs and
34 operational expenditures of the proposed solid waste management
35 system.

36 (4) A program for surveillance and control.

37 (5) A current inventory and description of solid waste collection
38 needs and operations within each respective jurisdiction which shall
39 include:

1 (a) Any franchise for solid waste collection granted by the
2 utilities and transportation commission in the respective
3 jurisdictions including the name of the holder of the franchise and
4 the address of his or her place of business and the area covered by
5 the franchise;

6 (b) Any city solid waste operation within the county and the
7 boundaries of such operation;

8 (c) The population density of each area serviced by a city
9 operation or by a franchised operation within the respective
10 jurisdictions;

11 (d) The projected solid waste collection needs for the respective
12 jurisdictions for the next six years.

13 (6) A comprehensive waste reduction and recycling element that,
14 in accordance with the priorities established in RCW 70A.205.005,
15 provides programs that (a) reduce the amount of waste generated, (b)
16 provide incentives and mechanisms for source separation, and (c)
17 establish recycling opportunities for the source separated waste.

18 (7) The waste reduction and recycling element shall include the
19 following:

20 (a) Waste reduction strategies, which may include strategies to
21 reduce wasted food and food waste that are designed to achieve the
22 goals established in RCW 70A.205.715(1) and that are consistent with
23 the plan developed in RCW 70A.205.715(3);

24 (b) Source separation strategies, including:

25 (i) Programs for the collection of source separated materials
26 from residences (~~in urban and rural areas. In urban areas, these~~),
27 including programs that are the responsibility of producer
28 responsibility organizations in chapter 70A.--- RCW (the new chapter
29 created in section 601 of this act) and distributor responsibility
30 organizations in chapter 70A.--- RCW (the new chapter created in
31 section 603 of this act). These programs shall include collection of
32 source separated recyclable materials from single and multiple-family
33 residences, unless the department approves an alternative program,
34 according to the criteria in the planning guidelines. Such criteria
35 shall include: Anticipated recovery rates and levels of public
36 participation, availability of environmentally sound disposal
37 capacity, access to markets for recyclable materials, unreasonable
38 cost impacts on the ratepayer over the six-year planning period,
39 utilization of environmentally sound waste reduction and recycling
40 technologies, and other factors as appropriate. (~~In rural areas,~~

1 ~~these~~) These programs shall also include but not be limited to drop-
2 off boxes, buy-back centers, or a combination of both, at each solid
3 waste transfer, processing, or disposal site, or at locations
4 convenient to the residents of the county. The drop-off boxes and
5 buy-back centers may be owned or operated by public, nonprofit, or
6 private persons. Comprehensive solid waste management plans that are
7 newly developed, updated, or amended after July 1, 2026, may
8 incorporate by reference the plans of producer responsibility
9 organizations established in the jurisdiction under chapter 70A.---
10 RCW (the new chapter created in section 601 of this act) to fulfill
11 this requirement in whole or in part;

12 (ii) Programs to monitor the collection of source separated waste
13 at nonresidential sites where there is sufficient density to sustain
14 a program;

15 (iii) Programs to collect yard waste and food waste, if the
16 county or city submitting the plan finds that there are adequate
17 markets or capacity for composted yard waste and food waste within or
18 near the service area to consume the majority of the material
19 collected; and

20 (iv) Programs to educate and promote the concepts of waste
21 reduction and recycling;

22 (c) Recycling strategies, including a description of markets for
23 recyclables, a review of waste generation trends, a description of
24 waste composition, a discussion and description of existing programs
25 and any additional programs needed to assist public and private
26 sector recycling, and an implementation schedule for the designation
27 of specific materials to be collected for recycling, and for the
28 provision of recycling collection services;

29 (d) Other information the county or city submitting the plan
30 determines is necessary.

31 (8) An assessment of the plan's impact on the costs of solid
32 waste collection. The assessment shall be prepared in conformance
33 with guidelines established by the utilities and transportation
34 commission. The commission shall cooperate with the Washington state
35 association of counties and the association of Washington cities in
36 establishing such guidelines.

37 (9) A review of potential areas that meet the criteria as
38 outlined in RCW 70A.205.110.

39 (10) A contamination reduction and outreach plan. The
40 contamination reduction and outreach plan must address reducing

1 contamination in recycling. Except for counties with a population of
2 twenty-five thousand or fewer, by July 1, 2021, a contamination
3 reduction and outreach plan must be included in each solid waste
4 management plan by a plan amendment or included when revising or
5 updating a solid waste management plan developed under this chapter.
6 Jurisdictions may adopt the state's contamination reduction and
7 outreach plan as developed under RCW 70A.205.070 or participate in a
8 producer responsibility organization's plan in lieu of creating their
9 own plan. In comprehensive solid waste management plans that are
10 newly developed, updated, or amended after July 1, 2027, a
11 jurisdiction must reference the plans of producer responsibility
12 organizations established in the jurisdiction under chapter 70A.---
13 RCW (the new chapter created in section 601 of this act) and any
14 plans of distributor responsibility organizations under chapter
15 70A.--- RCW (the new chapter created in section 603 of this act). A
16 recycling contamination reduction and outreach plan must include the
17 following:

18 (a) A list of actions for reducing contamination in recycling
19 programs for single-family and multiple-family residences, commercial
20 locations, and drop boxes depending on the jurisdictions system
21 components;

22 (b) A list of key contaminants identified by the jurisdiction or
23 identified by the department;

24 (c) A discussion of problem contaminants and the contaminants'
25 impact on the collection system;

26 (d) An analysis of the costs and other impacts associated with
27 contaminants to the recycling system; and

28 (e) An implementation schedule and details of how outreach is to
29 be conducted. Contamination reduction education methods may include
30 sharing community-wide messaging through newsletters, articles,
31 mailers, social media, websites, or community events, informing
32 recycling drop box customers about contamination, and improving
33 signage.

34 **Sec. 404.** RCW 81.77.030 and 2020 c 20 s 1467 are each amended to
35 read as follows:

36 (1) The commission shall supervise and regulate every solid waste
37 collection company in this state,

38 ~~((1))~~ (a) By fixing and altering its rates, charges,
39 classifications, rules and regulations;

1 ~~((2))~~ (b) By regulating the accounts, service, and safety of
2 operations;

3 ~~((3))~~ (c) By requiring the filing of annual and other reports
4 and data;

5 ~~((4))~~ (d) By supervising and regulating such persons or
6 companies in all other matters affecting the relationship between
7 them and the public which they serve;

8 ~~((5))~~ (e) By requiring compliance with local solid waste
9 management plans and related implementation ordinances;

10 ~~((6))~~ (f) By reviewing producer responsibility organization
11 reimbursement of regulated service providers consistent with the
12 requirements of chapter 70A.--- RCW (the new chapter created in
13 section 601 of this act);

14 (g) By requiring certificate holders under this chapter (~~81.77~~
15 ~~RCW~~) to use rate structures and billing systems consistent with the
16 solid waste management priorities set forth under RCW 70A.205.005 and
17 the minimum levels of solid waste collection and recycling services
18 pursuant to local comprehensive solid waste management plans and with
19 implementation of services designated by a producer responsibility
20 organization in an approved plan to meet the requirements of chapter
21 70A.--- RCW (the new chapter created in section 601 of this act). The
22 commission may order consolidated billing and provide for reasonable
23 and necessary expenses to be paid to the administering company if
24 more than one certificate is granted in an area.

25 (2) The commission, on complaint made on its own motion or by an
26 aggrieved party, at any time, after providing the holder of any
27 certificate with notice and an opportunity for a hearing at which it
28 shall be proven that the holder has willfully violated or refused to
29 observe any of the commission's orders, rules, or regulations, or has
30 failed to operate as a solid waste collection company for a period of
31 at least one year preceding the filing of the complaint, may suspend,
32 revoke, alter, or amend any certificate issued under the provisions
33 of this chapter.

34 **Sec. 405.** RCW 81.77.040 and 2020 c 20 s 1468 are each amended to
35 read as follows:

36 A solid waste collection company shall not operate for the
37 hauling of solid waste for compensation without first having obtained
38 from the commission a certificate declaring that public convenience
39 and necessity require such operation. Operating for the hauling of

1 solid waste for compensation includes advertising, soliciting,
2 offering, or entering into an agreement to provide that service. To
3 operate a solid waste collection company in the unincorporated areas
4 of a county, the company must comply with the solid waste management
5 plan prepared under chapter 70A.205 RCW in the company's franchise
6 area and, if applicable, the service standards established in an
7 approved producer responsibility organization plan to meet the
8 requirements of chapter 70A.--- RCW (the new chapter created in
9 section 601 of this act).

10 Issuance of the certificate of necessity must be determined on,
11 but not limited to, the following factors: The present service and
12 the cost thereof for the contemplated area to be served; an estimate
13 of the cost of the facilities to be utilized in the plant for solid
14 waste collection and disposal, set out in an affidavit or
15 declaration; a statement of the assets on hand of the person, firm,
16 association, or corporation that will be expended on the purported
17 plant for solid waste collection and disposal, set out in an
18 affidavit or declaration; a statement of prior experience, if any, in
19 such field by the petitioner, set out in an affidavit or declaration;
20 and sentiment in the community contemplated to be served as to the
21 necessity for such a service.

22 When an applicant requests a certificate to operate in a
23 territory already served by a certificate holder under this chapter,
24 the commission may, after notice and an opportunity for a hearing,
25 issue the certificate only if the existing solid waste collection
26 company or companies serving the territory will not provide service
27 to the satisfaction of the commission or if the existing solid waste
28 collection company does not object.

29 In all other cases, the commission may, with or without hearing,
30 issue certificates, or for good cause shown refuse to issue them, or
31 issue them for the partial exercise only of the privilege sought, and
32 may attach to the exercise of the rights granted such terms and
33 conditions as, in its judgment, the public convenience and necessity
34 may require.

35 Any right, privilege, certificate held, owned, or obtained by a
36 solid waste collection company may be sold, assigned, leased,
37 transferred, or inherited as other property, only if authorized by
38 the commission.

39 For purposes of issuing certificates under this chapter, the
40 commission may adopt categories of solid wastes as follows: Garbage,

1 refuse, recyclable materials, and demolition debris. A certificate
2 may be issued for one or more categories of solid waste. Certificates
3 issued on or before July 23, 1989, shall not be expanded or
4 restricted by operation of this chapter.

5 **Sec. 406.** RCW 81.77.160 and 1997 c 434 s 1 are each amended to
6 read as follows:

7 (1) The commission, in fixing and altering collection rates
8 charged by every solid waste collection company under this section,
9 shall include in the base for the collection rates:

10 (a) All charges for the disposal of solid waste at the facility
11 or facilities designated by a local jurisdiction under a local
12 comprehensive solid waste management plan or ordinance; and

13 (b) All known and measurable costs related to implementation of
14 the approved county or city comprehensive solid waste management plan
15 or to the implementation of services designated by a producer
16 responsibility organization in an approved plan to meet the
17 requirements of chapter 70A.--- RCW (the new chapter created in
18 section 601 of this act).

19 (2) If a solid waste collection company files a tariff to recover
20 the costs specified under this section, and the commission suspends
21 the tariff, the portion of the tariff covering costs specified in
22 this section shall be placed in effect by the commission at the
23 request of the company on an interim basis as of the originally filed
24 effective date, subject to refund, pending the commission's final
25 order. The commission may adopt rules to implement this section.

26 (3) This section applies to a solid waste collection company that
27 has an affiliated interest under chapter 81.16 RCW with a facility,
28 if the total cost of disposal, including waste transfer, transport,
29 and disposal charges, at the facility is equal to or lower than any
30 other reasonable and currently available option.

31 **Sec. 407.** RCW 81.77.185 and 2010 c 154 s 3 are each amended to
32 read as follows:

33 (1) The commission shall allow solid waste collection companies
34 collecting recyclable materials other than covered products collected
35 under an approved plan in chapter 70A.--- RCW (the new chapter
36 created in section 601 of this act) and qualifying beverage
37 containers under an approved plan in chapter 70A.--- RCW (the new
38 chapter created in section 603 of this act) to retain up to ((fifty))

1 50 percent of the revenue paid to the companies for the material if
2 the companies submit a plan to the commission that is certified by
3 the appropriate local government authority as being consistent with
4 the local government solid waste plan and that demonstrates how the
5 revenues will be used to increase recycling. The remaining revenue
6 shall be passed to residential customers.

7 (2) By December 2, 2005, the commission shall provide a report to
8 the legislature that evaluates:

9 (a) The effectiveness of revenue sharing as an incentive to
10 increase recycling in the state; and

11 (b) The effect of revenue sharing on costs to customers.

12 NEW SECTION. **Sec. 408.** A new section is added to chapter 81.04
13 RCW to read as follows:

14 Upon the request of a producer responsibility organization formed
15 under chapter 70A.--- RCW (the new chapter created in section 601 of
16 this act), the commission must conduct a prudency review of base cost
17 formulas proposed to be used for calculating reimbursement rates for
18 government entities, consistent with the requirements applicable to
19 the consultation process specified in section 106(3) of this act.

20 NEW SECTION. **Sec. 409.** APPLICATION OF CHAPTER—COLLECTION AND
21 TRANSPORTATION OF RECYCLABLE MATERIALS BY RECYCLING COMPANIES OR
22 NONPROFIT ENTITIES—REUSE OR RECLAMATION. (1) Nothing in this chapter
23 or chapter 70A.--- (the new chapter created in section 602 of this
24 act) or 70A.--- RCW (the new chapter created in section 603 of this
25 act) prevents a recycling company or nonprofit entity from collecting
26 and transporting recyclable materials from a buy-back center, drop
27 box, or from a commercial or industrial generator of recyclable
28 materials that does not include materials generated from single and
29 multiple-family residences upon agreement with a solid waste
30 collection company.

31 (2) Nothing in this chapter or chapter 70A.--- (the new chapter
32 created in section 602 of this act) or 70A.--- RCW (the new chapter
33 created in section 603 of this act) may be construed as prohibiting a
34 commercial or industrial generator of commercial recyclable materials
35 that does not contain materials generated from single or multiple-
36 family residences from selling, conveying, or arranging for
37 transportation of the material to a recycler for reuse or
38 reclamation.

1 NEW SECTION. **Sec. 410.** A new section is added to chapter
2 70A.222 RCW to read as follows:

3 The department of ecology may direct producers to register and
4 submit any required data, annual reports, fees, and annual payments,
5 and any additional information or documentation to the clearinghouse
6 established in section 126 of this act in lieu of submission to the
7 department.

8 NEW SECTION. **Sec. 411.** A new section is added to chapter
9 70A.350 RCW to read as follows:

10 The department may direct producers to register and submit any
11 required data, annual reports, fees, and annual payments, and any
12 additional information or documentation to the clearinghouse
13 established in section 126 of this act in lieu of submission to the
14 department.

15 NEW SECTION. **Sec. 412.** A new section is added to chapter
16 70A.245 RCW to read as follows:

17 The department may direct producers to register and submit any
18 required data, annual reports, fees, and annual payments, and any
19 additional information or documentation to the clearinghouse
20 established in section 126 of this act in lieu of submission to the
21 department.

22 NEW SECTION. **Sec. 413.** A new section is added to chapter
23 70A.230 RCW to read as follows:

24 The department may direct producers to register and submit any
25 required data, annual reports, fees, and annual payments, and any
26 additional information or documentation to the clearinghouse
27 established in section 126 of this act in lieu of submission to the
28 department.

29 NEW SECTION. **Sec. 414.** A new section is added to chapter
30 70A.340 RCW to read as follows:

31 The department may direct producers to register and submit any
32 required data, annual reports, fees, and annual payments, and any
33 additional information or documentation to the clearinghouse
34 established in section 126 of this act in lieu of submission to the
35 department.

1 disposal permit, the denial of an application for a waste disposal
2 permit, the modification of the conditions or the terms of a waste
3 disposal permit, or a decision to approve or deny an application for
4 a solid waste permit exemption under RCW 70A.205.260.

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

7 (e) Decisions of local health departments regarding the issuance
8 and enforcement of permits to use or dispose of biosolids under RCW
9 70A.226.090.

10 (f) Decisions of the department regarding waste-derived
11 fertilizer or micronutrient fertilizer under RCW 15.54.820, and
12 decisions of the department regarding waste-derived soil amendments
13 under RCW 70A.205.145.

14 (g) Decisions of local conservation districts related to the
15 denial of approval or denial of certification of a dairy nutrient
16 management plan; conditions contained in a plan; application of any
17 dairy nutrient management practices, standards, methods, and
18 technologies to a particular dairy farm; and failure to adhere to the
19 plan review and approval timelines in RCW 90.64.026.

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

23 (i) Decisions of the department of natural resources, the
24 department of fish and wildlife, and the department that are
25 reviewable under chapter 76.09 RCW, and the department of natural
26 resources' appeals of county, city, or town objections under RCW
27 76.09.050(7).

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

30 (k) Decisions of the department of fish and wildlife to issue,
31 deny, condition, or modify a hydraulic project approval permit under
32 chapter 77.55 RCW, to issue a stop work order, to issue a notice to
33 comply, to issue a civil penalty, or to issue a notice of intent to
34 disapprove applications.

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

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

1 (n) Decisions of the department of ecology that are appealable
2 under RCW 70A.245.020 or section 212 of this act to set recycled
3 minimum postconsumer content for ((covered)) products or to
4 temporarily exclude types of ((covered)) products in plastic
5 containers from minimum postconsumer recycled content requirements.

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

7 (2) The following hearings shall not be conducted by the hearings
8 board:

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

11 (b) Hearings conducted by the department pursuant to RCW
12 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,
13 70A.15.3110, and 90.44.180.

14 (c) Appeals of decisions by the department under RCW 90.03.110
15 and 90.44.220.

16 (d) Hearings conducted by the department to adopt, modify, or
17 repeal rules.

18 (3) Review of rules and regulations adopted by the hearings board
19 shall be subject to review in accordance with the provisions of the
20 administrative procedure act, chapter 34.05 RCW.

21 **Sec. 502.** RCW 43.21B.300 and 2022 c 180 s 813 are each amended
22 to read as follows:

23 (1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160,
24 70A.205.280, 70A.300.090, 70A.20.050, 70A.245.040, 70A.245.050,
25 70A.245.070, 70A.245.080, 70A.65.200, 70A.455.090, sections 124, 212,
26 and 319 of this act, 88.46.090, 90.03.600, 90.46.270, 90.48.144,
27 90.56.310, 90.56.330, and 90.64.102 and chapter 70A.355 RCW shall be
28 imposed by a notice in writing, either by certified mail with return
29 receipt requested or by personal service, to the person incurring the
30 penalty from the department or the local air authority, describing
31 the violation with reasonable particularity. For penalties issued by
32 local air authorities, within 30 days after the notice is received,
33 the person incurring the penalty may apply in writing to the
34 authority for the remission or mitigation of the penalty. Upon
35 receipt of the application, the authority may remit or mitigate the
36 penalty upon whatever terms the authority in its discretion deems
37 proper. The authority may ascertain the facts regarding all such
38 applications in such reasonable manner and under such rules as it may
39 deem proper and shall remit or mitigate the penalty only upon a

1 demonstration of extraordinary circumstances such as the presence of
2 information or factors not considered in setting the original
3 penalty.

4 (2) Any penalty imposed under this section may be appealed to the
5 pollution control hearings board in accordance with this chapter if
6 the appeal is filed with the hearings board and served on the
7 department or authority 30 days after the date of receipt by the
8 person penalized of the notice imposing the penalty or 30 days after
9 the date of receipt of the notice of disposition by a local air
10 authority of the application for relief from penalty.

11 (3) A penalty shall become due and payable on the later of:

12 (a) Thirty days after receipt of the notice imposing the penalty;

13 (b) Thirty days after receipt of the notice of disposition by a
14 local air authority on application for relief from penalty, if such
15 an application is made; or

16 (c) Thirty days after receipt of the notice of decision of the
17 hearings board if the penalty is appealed.

18 (4) If the amount of any penalty is not paid to the department
19 within 30 days after it becomes due and payable, the attorney
20 general, upon request of the department, shall bring an action in the
21 name of the state of Washington in the superior court of Thurston
22 county, or of any county in which the violator does business, to
23 recover the penalty. If the amount of the penalty is not paid to the
24 authority within 30 days after it becomes due and payable, the
25 authority may bring an action to recover the penalty in the superior
26 court of the county of the authority's main office or of any county
27 in which the violator does business. In these actions, the procedures
28 and rules of evidence shall be the same as in an ordinary civil
29 action.

30 (5) All penalties recovered shall be paid into the state treasury
31 and credited to the general fund except those penalties imposed
32 pursuant to RCW 18.104.155, which shall be credited to the
33 reclamation account as provided in RCW 18.104.155(7), RCW
34 70A.15.3160, the disposition of which shall be governed by that
35 provision, RCW 70A.245.040 (~~and~~), 70A.245.050, and section 212 of
36 this act, which shall be credited to the recycling enhancement
37 account created in RCW 70A.245.100, RCW 70A.300.090, which shall be
38 credited to the model toxics control operating account created in RCW
39 70A.305.180, RCW 70A.65.200, which shall be credited to the climate
40 investment account created in RCW 70A.65.250, RCW 90.56.330, which

1 shall be credited to the coastal protection fund created by RCW
2 90.48.390, (~~and~~) RCW 70A.355.070, which shall be credited to the
3 underground storage tank account created by RCW 70A.355.090, and
4 chapter 70A.--- RCW (the new chapter created in section 601 of this
5 act) and section 319 of this act, which shall be credited to the
6 responsible packaging management account created by section 128 of
7 this act.

8 **Sec. 503.** RCW 69.50.342 and 2022 c 16 s 63 are each amended to
9 read as follows:

10 (1) For the purpose of carrying into effect the provisions of
11 chapter 3, Laws of 2013 according to their true intent or of
12 supplying any deficiency therein, the board may adopt rules not
13 inconsistent with the spirit of chapter 3, Laws of 2013 as are deemed
14 necessary or advisable. Without limiting the generality of the
15 preceding sentence, the board is empowered to adopt rules regarding
16 the following:

17 (a) The equipment and management of retail outlets and premises
18 where cannabis is produced or processed, and inspection of the retail
19 outlets and premises where cannabis is produced or processed;

20 (b) The books and records to be created and maintained by
21 licensees, the reports to be made thereon to the board, and
22 inspection of the books and records;

23 (c) (i) Methods of producing, processing, and packaging cannabis,
24 useable cannabis, cannabis concentrates, and cannabis-infused
25 products; conditions of sanitation; safe handling requirements;
26 approved pesticides and pesticide testing requirements; and standards
27 of ingredients, quality, and identity of cannabis, useable cannabis,
28 cannabis concentrates, and cannabis-infused products produced,
29 processed, packaged, or sold by licensees;

30 (ii) In addition to the packaging requirements adopted by the
31 board by rule under (c) (i) of this subsection or RCW 69.50.345, the
32 postconsumer recycled content requirements of section 209 of this act
33 apply to the packaging of cannabis, usable cannabis, cannabis
34 concentrates, and cannabis-infused products. The board may recommend
35 to the department of ecology changes to the requirements of section
36 209(1) of this act, consistent with section 209(2) of this act;

37 (d) Security requirements for retail outlets and premises where
38 cannabis is produced or processed, and safety protocols for licensees
39 and their employees;

1 (e) Screening, hiring, training, and supervising employees of
2 licensees;

3 (f) Retail outlet locations and hours of operation;

4 (g) Labeling requirements and restrictions on advertisement of
5 cannabis, useable cannabis, cannabis concentrates, cannabis health
6 and beauty aids, and cannabis-infused products for sale in retail
7 outlets;

8 (h) Forms to be used for purposes of this chapter and chapter
9 69.51A RCW or the rules adopted to implement and enforce these
10 chapters, the terms and conditions to be contained in licenses issued
11 under this chapter and chapter 69.51A RCW, and the qualifications for
12 receiving a license issued under this chapter and chapter 69.51A RCW,
13 including a criminal history record information check. The board may
14 submit any criminal history record information check to the
15 Washington state patrol and to the identification division of the
16 federal bureau of investigation in order that these agencies may
17 search their records for prior arrests and convictions of the
18 individual or individuals who filled out the forms. The board must
19 require fingerprinting of any applicant whose criminal history record
20 information check is submitted to the federal bureau of
21 investigation;

22 (i) Application, reinstatement, and renewal fees for licenses
23 issued under this chapter and chapter 69.51A RCW, and fees for
24 anything done or permitted to be done under the rules adopted to
25 implement and enforce this chapter and chapter 69.51A RCW;

26 (j) The manner of giving and serving notices required by this
27 chapter and chapter 69.51A RCW or rules adopted to implement or
28 enforce these chapters;

29 (k) Times and periods when, and the manner, methods, and means by
30 which, licensees transport and deliver cannabis, cannabis
31 concentrates, useable cannabis, and cannabis-infused products within
32 the state;

33 (l) Identification, seizure, confiscation, destruction, or
34 donation to law enforcement for training purposes of all cannabis,
35 cannabis concentrates, useable cannabis, and cannabis-infused
36 products produced, processed, sold, or offered for sale within this
37 state which do not conform in all respects to the standards
38 prescribed by this chapter or chapter 69.51A RCW or the rules adopted
39 to implement and enforce these chapters;

1 (m) The prohibition of any type of device used in conjunction
2 with a cannabis vapor product and the prohibition of the use of any
3 type of additive, solvent, ingredient, or compound in the production
4 and processing of cannabis products, including cannabis vapor
5 products, when the board determines, following consultation with the
6 department of health or any other authority the board deems
7 appropriate, that the device, additive, solvent, ingredient, or
8 compound may pose a risk to public health or youth access; and

9 (n) Requirements for processors to submit under oath to the
10 department of health a complete list of all constituent substances
11 and the amount and sources thereof in each cannabis vapor product,
12 including all additives, thickening agents, preservatives, compounds,
13 and any other substance used in the production and processing of each
14 cannabis vapor product.

15 (2) Rules adopted on retail outlets holding medical cannabis
16 endorsements must be adopted in coordination and consultation with
17 the department.

18 (3) The board must adopt rules to perfect and expand existing
19 programs for compliance education for licensed cannabis businesses
20 and their employees. The rules must include a voluntary compliance
21 program created in consultation with licensed cannabis businesses and
22 their employees. The voluntary compliance program must include
23 recommendations on abating violations of this chapter and rules
24 adopted under this chapter.

25 **Sec. 504.** RCW 69.50.345 and 2022 c 16 s 64 are each amended to
26 read as follows:

27 The board, subject to the provisions of this chapter, must adopt
28 rules that establish the procedures and criteria necessary to
29 implement the following:

30 (1) Licensing of cannabis producers, cannabis processors, and
31 cannabis retailers, including prescribing forms and establishing
32 application, reinstatement, and renewal fees.

33 (a) Application forms for cannabis producers must request the
34 applicant to state whether the applicant intends to produce cannabis
35 for sale by cannabis retailers holding medical cannabis endorsements
36 and the amount of or percentage of canopy the applicant intends to
37 commit to growing plants determined by the department under RCW
38 69.50.375 to be of a THC concentration, CBD concentration, or THC to

1 CBD ratio appropriate for cannabis concentrates, useable cannabis, or
2 cannabis-infused products sold to qualifying patients.

3 (b) The board must reconsider and increase limits on the amount
4 of square feet permitted to be in production on July 24, 2015, and
5 increase the percentage of production space for those cannabis
6 producers who intend to grow plants for cannabis retailers holding
7 medical cannabis endorsements if the cannabis producer designates the
8 increased production space to plants determined by the department
9 under RCW 69.50.375 to be of a THC concentration, CBD concentration,
10 or THC to CBD ratio appropriate for cannabis concentrates, useable
11 cannabis, or cannabis-infused products to be sold to qualifying
12 patients. If current cannabis producers do not use all the increased
13 production space, the board may reopen the license period for new
14 cannabis producer license applicants but only to those cannabis
15 producers who agree to grow plants for cannabis retailers holding
16 medical cannabis endorsements. Priority in licensing must be given to
17 cannabis producer license applicants who have an application pending
18 on July 24, 2015, but who are not yet licensed and then to new
19 cannabis producer license applicants. After January 1, 2017, any
20 reconsideration of the limits on the amount of square feet permitted
21 to be in production to meet the medical needs of qualifying patients
22 must consider information contained in the medical cannabis
23 authorization database established in RCW 69.51A.230;

24 (2) Determining, in consultation with the office of financial
25 management, the maximum number of retail outlets that may be licensed
26 in each county, taking into consideration:

27 (a) Population distribution;

28 (b) Security and safety issues;

29 (c) The provision of adequate access to licensed sources of
30 cannabis concentrates, useable cannabis, and cannabis-infused
31 products to discourage purchases from the illegal market; and

32 (d) The number of retail outlets holding medical cannabis
33 endorsements necessary to meet the medical needs of qualifying
34 patients. The board must reconsider and increase the maximum number
35 of retail outlets it established before July 24, 2015, and allow for
36 a new license application period and a greater number of retail
37 outlets to be permitted in order to accommodate the medical needs of
38 qualifying patients and designated providers. After January 1, 2017,
39 any reconsideration of the maximum number of retail outlets needed to
40 meet the medical needs of qualifying patients must consider

1 information contained in the medical cannabis authorization database
2 established in RCW 69.51A.230;

3 (3) Determining the maximum quantity of cannabis a cannabis
4 producer may have on the premises of a licensed location at any time
5 without violating Washington state law;

6 (4) Determining the maximum quantities of cannabis, cannabis
7 concentrates, useable cannabis, and cannabis-infused products a
8 cannabis processor may have on the premises of a licensed location at
9 any time without violating Washington state law;

10 (5) Determining the maximum quantities of cannabis concentrates,
11 useable cannabis, and cannabis-infused products a cannabis retailer
12 may have on the premises of a retail outlet at any time without
13 violating Washington state law;

14 (6) In making the determinations required by this section, the
15 board shall take into consideration:

16 (a) Security and safety issues;

17 (b) The provision of adequate access to licensed sources of
18 cannabis, cannabis concentrates, useable cannabis, and cannabis-
19 infused products to discourage purchases from the illegal market; and

20 (c) Economies of scale, and their impact on licensees' ability to
21 both comply with regulatory requirements and undercut illegal market
22 prices;

23 (7) (~~Determining~~) Except as provided in section 212 of this act
24 and RCW 69.50.342(1)(c)(ii), determining the nature, form, and
25 capacity of all containers to be used by licensees to contain
26 cannabis, cannabis concentrates, useable cannabis, and cannabis-
27 infused products, and their labeling requirements;

28 (8) In consultation with the department of agriculture and the
29 department, establishing classes of cannabis, cannabis concentrates,
30 useable cannabis, and cannabis infused products according to grade,
31 condition, cannabinoid profile, THC concentration, CBD concentration,
32 or other qualitative measurements deemed appropriate by the board;

33 (9) Establishing reasonable time, place, and manner restrictions
34 and requirements regarding advertising of cannabis, cannabis
35 concentrates, useable cannabis, and cannabis-infused products that
36 are not inconsistent with the provisions of this chapter, taking into
37 consideration:

38 (a) Federal laws relating to cannabis that are applicable within
39 Washington state;

1 (b) Minimizing exposure of people under (~~twenty-one~~) 21 years
2 of age to the advertising;

3 (c) The inclusion of medically and scientifically accurate
4 information about the health and safety risks posed by cannabis use
5 in the advertising; and

6 (d) Ensuring that retail outlets with medical cannabis
7 endorsements may advertise themselves as medical retail outlets;

8 (10) Specifying and regulating the time and periods when, and the
9 manner, methods, and means by which, licensees shall transport and
10 deliver cannabis, cannabis concentrates, useable cannabis, and
11 cannabis-infused products within the state;

12 (11) In consultation with the department and the department of
13 agriculture, establishing accreditation requirements for testing
14 laboratories used by licensees to demonstrate compliance with
15 standards adopted by the board, and prescribing methods of producing,
16 processing, and packaging cannabis, cannabis concentrates, useable
17 cannabis, and cannabis-infused products; conditions of sanitation;
18 and standards of ingredients, quality, and identity of cannabis,
19 cannabis concentrates, useable cannabis, and cannabis-infused
20 products produced, processed, packaged, or sold by licensees;

21 (12) Specifying procedures for identifying, seizing,
22 confiscating, destroying, and donating to law enforcement for
23 training purposes all cannabis, cannabis concentrates, useable
24 cannabis, and cannabis-infused products produced, processed,
25 packaged, labeled, or offered for sale in this state that do not
26 conform in all respects to the standards prescribed by this chapter
27 or the rules of the board.

28 **Sec. 505.** RCW 69.50.345 and 2022 c 16 s 65 are each amended to
29 read as follows:

30 The board, subject to the provisions of this chapter, must adopt
31 rules that establish the procedures and criteria necessary to
32 implement the following:

33 (1) Licensing of cannabis producers, cannabis processors, and
34 cannabis retailers, including prescribing forms and establishing
35 application, reinstatement, and renewal fees.

36 (a) Application forms for cannabis producers must request the
37 applicant to state whether the applicant intends to produce cannabis
38 for sale by cannabis retailers holding medical cannabis endorsements
39 and the amount of or percentage of canopy the applicant intends to

1 commit to growing plants determined by the department under RCW
2 69.50.375 to be of a THC concentration, CBD concentration, or THC to
3 CBD ratio appropriate for cannabis concentrates, useable cannabis, or
4 cannabis-infused products sold to qualifying patients.

5 (b) The board must reconsider and increase limits on the amount
6 of square feet permitted to be in production on July 24, 2015, and
7 increase the percentage of production space for those cannabis
8 producers who intend to grow plants for cannabis retailers holding
9 medical cannabis endorsements if the cannabis producer designates the
10 increased production space to plants determined by the department
11 under RCW 69.50.375 to be of a THC concentration, CBD concentration,
12 or THC to CBD ratio appropriate for cannabis concentrates, useable
13 cannabis, or cannabis-infused products to be sold to qualifying
14 patients. If current cannabis producers do not use all the increased
15 production space, the board may reopen the license period for new
16 cannabis producer license applicants but only to those cannabis
17 producers who agree to grow plants for cannabis retailers holding
18 medical cannabis endorsements. Priority in licensing must be given to
19 cannabis producer license applicants who have an application pending
20 on July 24, 2015, but who are not yet licensed and then to new
21 cannabis producer license applicants. After January 1, 2017, any
22 reconsideration of the limits on the amount of square feet permitted
23 to be in production to meet the medical needs of qualifying patients
24 must consider information contained in the medical cannabis
25 authorization database established in RCW 69.51A.230;

26 (2) Determining, in consultation with the office of financial
27 management, the maximum number of retail outlets that may be licensed
28 in each county, taking into consideration:

29 (a) Population distribution;

30 (b) Security and safety issues;

31 (c) The provision of adequate access to licensed sources of
32 cannabis concentrates, useable cannabis, and cannabis-infused
33 products to discourage purchases from the illegal market; and

34 (d) The number of retail outlets holding medical cannabis
35 endorsements necessary to meet the medical needs of qualifying
36 patients. The board must reconsider and increase the maximum number
37 of retail outlets it established before July 24, 2015, and allow for
38 a new license application period and a greater number of retail
39 outlets to be permitted in order to accommodate the medical needs of
40 qualifying patients and designated providers. After January 1, 2017,

1 any reconsideration of the maximum number of retail outlets needed to
2 meet the medical needs of qualifying patients must consider
3 information contained in the medical cannabis authorization database
4 established in RCW 69.51A.230;

5 (3) Determining the maximum quantity of cannabis a cannabis
6 producer may have on the premises of a licensed location at any time
7 without violating Washington state law;

8 (4) Determining the maximum quantities of cannabis, cannabis
9 concentrates, useable cannabis, and cannabis-infused products a
10 cannabis processor may have on the premises of a licensed location at
11 any time without violating Washington state law;

12 (5) Determining the maximum quantities of cannabis concentrates,
13 useable cannabis, and cannabis-infused products a cannabis retailer
14 may have on the premises of a retail outlet at any time without
15 violating Washington state law;

16 (6) In making the determinations required by this section, the
17 board shall take into consideration:

18 (a) Security and safety issues;

19 (b) The provision of adequate access to licensed sources of
20 cannabis, cannabis concentrates, useable cannabis, and cannabis-
21 infused products to discourage purchases from the illegal market; and

22 (c) Economies of scale, and their impact on licensees' ability to
23 both comply with regulatory requirements and undercut illegal market
24 prices;

25 (7) (~~Determining~~) Except as provided in section 212 of this act
26 and RCW 69.50.342(1)(c)(ii), determining the nature, form, and
27 capacity of all containers to be used by licensees to contain
28 cannabis, cannabis concentrates, useable cannabis, and cannabis-
29 infused products, and their labeling requirements;

30 (8) In consultation with the department of agriculture and the
31 department, establishing classes of cannabis, cannabis concentrates,
32 useable cannabis, and cannabis-infused products according to grade,
33 condition, cannabinoid profile, THC concentration, CBD concentration,
34 or other qualitative measurements deemed appropriate by the board;

35 (9) Establishing reasonable time, place, and manner restrictions
36 and requirements regarding advertising of cannabis, cannabis
37 concentrates, useable cannabis, and cannabis-infused products that
38 are not inconsistent with the provisions of this chapter, taking into
39 consideration:

1 (a) Federal laws relating to cannabis that are applicable within
2 Washington state;

3 (b) Minimizing exposure of people under (~~twenty-one~~) 21 years
4 of age to the advertising;

5 (c) The inclusion of medically and scientifically accurate
6 information about the health and safety risks posed by cannabis use
7 in the advertising; and

8 (d) Ensuring that retail outlets with medical cannabis
9 endorsements may advertise themselves as medical retail outlets;

10 (10) Specifying and regulating the time and periods when, and the
11 manner, methods, and means by which, licensees shall transport and
12 deliver cannabis, cannabis concentrates, useable cannabis, and
13 cannabis-infused products within the state;

14 (11) In consultation with the department and the department of
15 agriculture, prescribing methods of producing, processing, and
16 packaging cannabis, cannabis concentrates, useable cannabis, and
17 cannabis-infused products; conditions of sanitation; and standards of
18 ingredients, quality, and identity of cannabis, cannabis
19 concentrates, useable cannabis, and cannabis-infused products
20 produced, processed, packaged, or sold by licensees;

21 (12) Specifying procedures for identifying, seizing,
22 confiscating, destroying, and donating to law enforcement for
23 training purposes all cannabis, cannabis concentrates, useable
24 cannabis, and cannabis-infused products produced, processed,
25 packaged, labeled, or offered for sale in this state that do not
26 conform in all respects to the standards prescribed by this chapter
27 or the rules of the board.

28 NEW SECTION. **Sec. 506.** AUTHORITY OF UTILITIES AND
29 TRANSPORTATION COMMISSION. Nothing in this chapter or chapter 70A.---
30 (the new chapter created in section 602 of this act) or 70A.--- RCW
31 (the new chapter created in section 603 of this act) changes or
32 limits the authority of the Washington utilities and transportation
33 commission to regulate collection of solid waste, including curbside
34 collection of residential recyclable materials, in accordance with
35 chapter 81.77 RCW.

36 NEW SECTION. **Sec. 507.** If any provision of this act or its
37 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected.

3 NEW SECTION. **Sec. 508.** Section 504 of this act expires July 1,
4 2024.

5 NEW SECTION. **Sec. 509.** Section 505 of this act takes effect
6 July 1, 2024.

7 **Part Six**
8 **Codification Directives**

9 NEW SECTION. **Sec. 601.** Sections 101 through 129, 409, and 506
10 of this act constitute a new chapter in Title 70A RCW.

11 NEW SECTION. **Sec. 602.** Sections 201 through 208 and 210 through
12 214 of this act constitute a new chapter in Title 70A RCW.

13 NEW SECTION. **Sec. 603.** Sections 301 through 319 and 416 of this
14 act constitute a new chapter in Title 70A RCW.

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