

# HOUSE BILL REPORT

## HB 1071

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**As Reported by House Committee On:**  
Environment & Energy

**Title:** An act relating to implementing strategies to achieve higher recycling rates within Washington's existing solid waste management system.

**Brief Description:** Implementing strategies to achieve higher recycling rates within Washington's existing solid waste management system.

**Sponsors:** Representatives Fey, Leavitt, Walen, Bronoske, Reeves, Barkis, Waters, Callan, Thai, Berg, Low, Schmidt, Rule, Goodman, Pollet, Lekanoff and Salahuddin.

**Brief History:**

**Committee Activity:**

Environment & Energy: 1/16/25, 2/11/25 [DPS].

**Brief Summary of Substitute Bill**

- Requires producers to register and report to the Department of Ecology (Ecology) regarding the sale and distribution in Washington of certain paper products and packaging (covered PPP).
- Requires Ecology to carry out a recycling-system needs assessment related to covered PPP, and to publish and to periodically update lists of recyclable materials suitable for curbside or drop-off collection.
- Requires Ecology to establish an advisory committee with specified duties, including the formation of a task force to make recommendations on misleading recyclability claims.
- Makes changes to minimum postconsumer recycled content (PCRC) requirements for certain plastic packaging and products, including requiring additional types of plastic packaging to meet PCRC requirements.
- Establishes criteria and processes for the Utilities and Transportation

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

Commission to approve solid waste collection rate discounts for low-income persons.

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## HOUSE COMMITTEE ON ENVIRONMENT & ENERGY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 19 members: Representatives Doglio, Chair; Hunt, Vice Chair; Dye, Ranking Minority Member; Klicker, Assistant Ranking Member; Abbarno, Abell, Barnard, Berry, Duerr, Fey, Fitzgibbon, Kloba, Ley, Mena, Ramel, Stearns, Street, Stuebe and Wylie.

**Staff:** Jacob Lipson (786-7196).

### **Background:**

#### Solid Waste Management in Washington.

Under the state's solid waste management laws, local governments are the primary government entity responsible for implementing state solid waste management requirements. The Department of Ecology (Ecology) also has certain roles in overseeing the administration of solid waste management laws. Ecology is responsible for working cooperatively with local governments as they develop their local solid waste management plans. County and city solid waste management plans are required to contain certain elements, including a waste reduction and recycling element, and a recycling contamination reduction and outreach plan. Under state laws addressing the local planning and management of solid waste, a waste management hierarchy is established for the collection, handling, and management of solid waste and prioritizes, in descending order: (1) waste reduction; (2) recycling, with source separation of recyclable materials as the preferred method; (3) energy recovery, incineration, or landfill of separated waste; and (4) energy recovery, incineration, or landfill of mixed municipal solid wastes.

The Utilities and Transportation Commission (UTC) regulates private service providers that transport solid waste, garbage, and recyclables from residential sites. The certificate to transport garbage and recyclables sets the geographic areas in which the service provider is authorized to collect waste. Cities and towns have the authority to provide their own solid waste collection services or to contract for solid waste collection services, including collection of source-separated recyclable materials. Counties may contract for the collection of source-separated recyclable materials in unincorporated areas of the county.

Solid waste collection services provided or contracted by cities and towns or contracted by counties are not subject to UTC regulation. Materials collected for recycling are transported to material recovery facilities, which receive, compact, repackage, or sort materials for the purposes of recycling. Counties may request the UTC to approve discounted solid waste collection rates, charges, or services for low-income services that have been adopted in the county's solid waste management plan; lost revenues from discounts must be included in the

solid waste collection company's cost of service and recovered in rates to other customers.

### Plastic Labeling.

State law categorizes the following types of plastic resin:

1. polyethylene terephthalate (PETE);
2. high-density polyethylene (HDPE);
3. vinyl (V);
4. low-density polyethylene (LDPE);
5. polypropylene (PP);
6. polystyrene (PS); and
7. other.

### Recent Plastics and Packaging Study.

In December 2023 Ecology submitted a report, mandated by a 2023 Operating Budget proviso, related to consumer packaging and paper materials to the Legislature from a contracted consultant. The report recommends the highest achievable recycling, reuse, and source reduction performance rates for Washington under four policy scenarios involving a combination of policies, including:

- scenarios that include an extended producer responsibility or product stewardship program for packaging and paper products;
- a deposit return system for beverage containers;
- the establishment of new postconsumer recycling rate targets for plastic products; and
- prohibitions on the use of false recyclability claims on product labels.

The December 2023 report also reported the surveyed input of Washington residents on the state's recycling system.

### Minimum Recycled Content Requirements.

In 2021 the Legislature established minimum recycled content requirements applicable to three categories of plastic products or products in plastic containers: trash bags, household and personal care product containers, and plastic beverage containers. Producers subject to minimum postconsumer recycled content (PCRC) requirements were required to register with Ecology and pay fees to cover Ecology's administrative costs related to minimum recycled content standards beginning in 2022. Unique minimum PCRC rates and timelines over which the minimum recycled content rates increase apply to:

- beverages other than wine in 187 milliliter plastic beverage containers, requiring 15 percent PCRC in 2023, increasing to 50 percent by 2031;
- wine in 187 milliliter plastic beverage containers and dairy milk, requiring 15 percent PCRC in 2023, increasing to 50 percent by 2036;
- household cleaning and personal care product containers, requiring 15 percent PCRC in 2023, increasing to 50 percent by 2031; and
- plastic trash bags, requiring 10 percent PCRC in 2023, increasing to 20 percent by 2027.

Beginning in 2025, Ecology may annually review and determine whether to adjust minimum PCRC requirements for the following year. Ecology may do so for a type of container within a category of covered paper products and packaging after considering market conditions, recycling rates, and other specified factors. Manufacturers of products that are subject to PCRC requirements, who do not achieve the PCRC requirements, are subject to penalties. Penalties are calculated based upon the amounts in pounds in aggregate of virgin plastic, PCRC plastic, and other plastic used by manufacturers to produce covered containers, at a rate of 20 cents per pound of plastic below the amount of PCRC plastic needed to achieve minimum PCRC requirements

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### **Summary of Substitute Bill:**

#### Producer Registration and Reporting on Paper Products and Packaging.

Producers of covered plastic packaging and paper products (covered PPP) must register with Ecology, beginning March 1, 2026. Producers are defined to include specified entities associated with covered PPP, but do not include government entities, nonprofit organizations, or entities that sell, distribute, or import de minimis volumes of covered PPP.

Packaging is defined to include various covered PPP, including single-use items that facilitate food or beverage consumption.

Covered PPP does not include:

- materials intended for long-term use associated with durable products;
- materials used to package federally regulated pesticide products;
- packaging for agricultural products and packaging products used by pesticide, fertilizer, or agricultural chemical manufacturing businesses, and businesses that support agricultural crop production;
- medical devices, medical food, drugs, dietary and oral nutritional supplements, vaccines, or biologic or animal biologic drug products;
- reusable or refillable propane gas containers;
- infant formula;
- paint containers;
- packaging to contain hazardous or flammable products;
- packaging sold or supplied to consumers on board commercial aircraft for personal use during in-flight operations;
- nonprinted paper;
- bound books; or
- newspaper, or paper used for building construction, and paper that could become contaminated through foreseeable uses.

Beginning April 1, 2027, producers must begin submitting annual reports to Ecology that include, by material category, the volume in pounds of covered products sold or distributed

into Washington during the preceding calendar year. National data allocated on a per capita basis for Washington may be submitted if a producer demonstrates to Ecology that state-level data are not feasible.

The registration and reporting of producers must include specified information and may occur through a third-party representative that registers on behalf of producers. Producers that submit confidential information to Ecology may request that the information be only for the confidential use of Ecology. Ecology's Director may consider this request and must grant the request that the information remain confidential if it is not detrimental to the public interest and is otherwise in accordance with Ecology's policies.

Ecology may adopt rules to implement, administer, and enforce producer reporting and registration requirements. Ecology may conduct audits and investigations. Ecology must annually publish a list of registered producers and their brands and compliance status on their website.

#### Recycling Goals, Needs Assessment, and Statewide Lists.

A goal is established for Washington to achieve a 65 percent recycling rate for covered PPP. Ecology must track progress towards this goal and make progress public. This goal must be used to inform the statewide needs assessment.

By October 1, 2026, Ecology must develop two lists:

- The first list must include recyclable materials suitable for curbside collection from residents in single and multifamily residences. Initially, this list must include: newspaper; paperboard and chipboard; loose paper; corrugated cardboard; magazines; envelopes; aluminum, tin, or steel cans; and HDPE and PETE plastic containers.
- The second list must include a list of materials suitable for residential drop-off collection, which initially must include glass and flexible plastic.

Ecology may identify additional materials for inclusion on these lists, or remove materials for inclusion on these lists, based on consultation with the stakeholder advisory committee appointed by Ecology, and after considering specified factors. Ecology must review and update these lists by 2031 and at least every five years afterwards.

Ecology must complete a statewide needs assessment carried out by a third-party consultant by October 1, 2027. Specified processes and sources of input must be considered and followed in scoping the needs assessment. The needs assessment must use the recycling rates from Ecology's 2023 report to the Legislature required by the 2023 Operating Budget proviso, focused on covered PPP collected from residences and included on the list adopted by Ecology in 2026. Each solid waste planning jurisdiction must be consulted prior to the completion of the needs assessment. The needs assessment must—for each solid waste planning jurisdiction—evaluate the capacity, costs, gaps, and needs relative to the achievement of performance rate goals for specified aspects of the recycling system, including types of recycling services and methods and infrastructure for covered PPP,

education and outreach, and collection, transport, and processing capacity. The needs assessment must also compile a number of other specified categories of information related to the costs and operations of the state's recycling system.

#### Oversight and Enforcement for Producers of Covered Paper Products and Packaging.

Beginning in 2026, Ecology must prepare a workload analysis used to determine the fee payment amount for producers required to register and report. Ecology's annual fee amount is calculated by including Ecology's costs of supporting the stakeholder advisory committee, carrying out statewide needs assessments, developing lists of recyclable materials suitable for collection, and overseeing the registration and reporting of producers.

Producers that are in violation of registration and reporting requirement are subject to civil penalties of up to \$1,000 per day. Ecology must provide at least two notices of violation prior to issuing a penalty. Penalties are appealable to the Pollution Control Hearings Board.

An advisory committee is established, with a prescribed membership appointed by Ecology comprised of representatives of 10 types of organizations or entities. The mechanics for forming and carrying out the business of the stakeholder advisory committee are prescribed. The stakeholder advisory committee's duties include making recommendations to Ecology on the lists of recyclable materials suitable for collection and the scope of the statewide needs assessment, and providing input on Ecology rules and implementation of producer registration and reporting requirements. Ecology may establish working groups comprised of members of the advisory committee, and must establish a Truth-in-Labeling Task Force as a subgroup of the advisory committee. The Truth-in-Labeling Task Force must study and evaluate misleading or confusing claims regarding the recyclability of products and make recommendations to the Legislature by June 1, 2027.

#### Postconsumer Recycled Content.

New PCRC requirements are established for specified products.

Polypropylene tubs must meet the following requirements:

- For tubs not in direct contact with food or edible products, 10 percent must be from PCRC from 2031 through 2035, and 30 percent must be from PCRC beginning in 2036.
- For tubs in direct contact with food or edible products, 10 percent must be from PCRC from 2035 through 2038, and 30 percent must be from PCRC beginning in 2040.

Single-use plastic cups must meet the following requirements:

- Polypropylene single-use plastic cups must meet 15 percent PCRC requirements in 2032, and 25 percent beginning in 2034.
- PETE and polystyrene single-use plastic cups must meet 20 percent PCRC requirements from 2034 through 2035, and 30 percent PCRC beginning in 2036.



PETE thermoform plastic containers must meet the following requirements:

- Packaging for consumable goods must meet 10 percent PCRC from 2031 through 2035 and 30 percent PCRC beginning in 2036.
- Packaging for consumable goods in direct contact with food or edible products must meet 10 percent PCRC from 2035 through 2039 and 30 percent PCRC beginning in 2040.
- Packaging for durable goods must meet 30 percent PCRC beginning in 2034.

Producers of products newly subject to these PCRC requirements must register with Ecology by June 1, 2025. These new PCRC requirements must be suspended by Ecology if Washington's recycling rate reaches 65 percent. Ecology may extend the compliance dates applicable to any of the new PCRC requirements for thermoform plastic containers, single-use plastic cups, and polypropylene tubs by up to five years for all producers if it determines that there is an inadequate availability of recycled material or a substantial disruption of recycled material supply.

A producer may pay a \$1,000 waiver fee and apply to Ecology for a waiver from the new PCRC requirements for thermoform plastic containers, single-use plastic cups, and polypropylene tubs. Ecology may grant a waiver upon finding that compliance is not technically feasible, there is inadequate availability or a substantial disruption in the supply of recycled material, or that compliance with PCRC requirements would be in conflict with federal law or regulations.

Registration and annual reporting logistics that apply to existing PCRC requirements for plastic products will apply to the new plastic products subject to PCRC requirements.

Ecology must ensure that PCRC rules for all products subject to PCRC requirements consider the guidelines and do not conflict with the regulations issued by the federal Food and Drug Administration and Department of Agriculture. Ecology may not impose PCRC requirements that are in direct conflict with a federal law or regulation, or on medical devices, drugs, or dietary supplements.

Changes to existing PCRC requirements are made, including:

- specifying that dairy milk containers are a beverage container subject to PCRC requirements;
- amending the types of nutritional formula beverages that are exempt from PCRC requirements for beverage containers;
- specifying that plastic carryout bags are not subject to the PCRC requirements generally applicable to plastic trash bags; and
- changing the income thresholds below which a business qualifies as a de minimis producer not subject to PCRC requirements.

Low-Income Solid Waste Collection Rate Discounts.

A solid waste collection company, in addition to a county, may request that the UTC approve rates, charges, or services at a discount for low-income customers, and such a request is no longer required to be part of the adopted county solid waste management plan. Additional structure is added to the low-income discounts that the UTC may approve, including:

- Low-income discounts must be provided in coordination with community-based organizations in a solid waste collection company's service territory.
- Eligibility for a low-income discount rate must be established upon verification of a low-income customer's receipt of any means-tested public benefit.
- Low-income discounts may only be received by individuals whose income does not exceed levels defined by the UTC or the Department of Commerce, which may not exceed the higher of 80 percent of area median household income or 200 percent of the federal poverty level.
- Solid waste collection companies that offer low-income discounts must conduct outreach efforts to eligible customers that meet specified criteria.
- Customers eligible for a solid-waste collection discount must receive the service on demand, and may not be charged for initiating or terminating a low-income discount rate.

The UTC may adopt rules or guidance related to low-income discounts for solid waste collection company customers.

### **Substitute Bill Compared to Original Bill:**

The substitute bill makes the following changes to the original bill, the bill:

- exempts a number of new categories of packaging from the packaging that is to be the subject of producer registration and reporting, the needs assessment, and the list of recyclable materials, including:
  - infant formula;
  - medical food;
  - fortified oral nutritional supplements;
  - packaging regulated by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), known as the federal pesticide law;
  - packaging products used by pesticide, fertilizer, or agricultural chemical manufacturing businesses, and business that support agricultural crop production;
  - packaging for agricultural products regulated under the federal Food, Drug, and Cosmetic Act;
  - animal biologics covered by the United States Department of Agriculture (USDA) under the Virus-Serum-Toxin Act;
  - fertilizer packaging used in agriculture or commercial applications; and
  - packaging sold or supplied to consumers on board commercial aircraft for personal use during in-flight operations;
- exempts paper that is not printed paper from the paper products that are subject to



- producer registration and reporting, the needs assessment, and the list of recyclable materials;
- amends a number of implementation dates applicable to producer registration and reporting for paper and packaging products (covered PPP), and related Ecology oversight duties;
  - deposits Ecology's fee payments in the existing Recycled Content Account, and eliminates the New Packaging Recycling Oversight Account;
  - requires the Truth-in-Labeling Task Force to prioritize alignment with Federal Trade Commission green guides and a 2021 California law that addresses labeling of the recyclability of products, and delays the task force's report by one year;
  - provides a June 1, 2026, registration deadline for producers subject to new PCRC requirements for polypropylene tubs, single-use plastic cups, and polyethylene terephthalate thermoform plastic containers (new PCRC products);
  - suspends PCRC requirements for new PCRC products if Ecology determines Washington's recycling rate exceeds 65 percent; and
  - restores the exclusion from existing PCRC requirements for beverage container caps and lids.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) Careful planning, study, and consideration of the state's recycling needs will lead to a better long-term recycling outcome. A recycling needs assessment must consider the unique needs of each community, a full range of costs and service data, and options to reduce contamination and improve markets. Many communities have effective solid waste collection and disposal systems that are uniquely tailored to match local characteristics. No other states have yet fully implemented an extended producer responsibility program for packaging, and it is premature to assume that such programs will be effective. Programs that place obligations on producers of products have the potential to raise the price of groceries and other goods. Establishing a unified list of recyclable materials will help reduce recycling system contamination. Producers that mislabel items as recyclable should be accountable for the contamination that results. Postconsumer recycled content requirements for producers help create market demand for recycled materials.

(Opposed) A needs assessment of the recycling system is a critical but insufficient step toward improving recycling rates, and must be carried out within the framework of a producer responsibility system. Requiring producers of packaging to register with Ecology,

but without requiring them to fund recycling services, will not achieve meaningfully improved recycling outcomes. The list of materials to be collected curbside should not be pre-determined by the Legislature, but should result from studying the recycling system. Glass will not have an option for curbside recycling under this bill. Postconsumer recycled content standards must be achievable. The bill sets a nonbinding goal for a statewide recycling rate. Material recovery facilities must be transparent about how collected plastics and other recyclable materials are being managed.

(Other) The strategies implemented through this bill would not meaningfully increase recycling rates, which could be expected to increase by as little as 1 percent by 2032 based on previous analyses of similar proposals. This bill does not contain producer responsibility concepts, but would take considerable amounts of time and resources to implement. Local governments would not be required to rely on the statewide lists of recyclable materials developed by Ecology. Businesses in Washington have diverse needs and perspectives with respect to the state's recycling system. An extended producer responsibility program plus a deposit return program for beverage containers would achieve the best recycling outcomes for Washington. Grocery stores support a needs assessment before additional recycling system changes are implemented. The needs assessment in this proposal is appropriately focused on local variations across the state.

**Persons Testifying:** (In support) Representative Jake Fey, prime sponsor; Mark Johnson, Washington Retail Association; Autumn Dietrich, Consolidated Disposal Service, Inc.; Brian Coddington, Sunshine Disposal and Recycling; Wendy Weiker, Republic Services; Katie Beeson, Washington Food Industry Association (WFIA); Lyset Cadena, WM (Waste Management); Jay Balasbas, Basin Disposal; Natalie Hester, Republic Services; Vicki Christophersen, Washington Refuse and Recycling Association; Samantha Louderback, Washington Hospitality Association; Rick Vahl, Waste Connections; and Erin Raden, Consumer Brands Association .

(Opposed) Andrew Hackman, AMERIPEN; Scott DeFife, Glass Packaging Institute; Heather Trim, Zero Waste Washington; Allison Kustic, Association of Plastic Recyclers (APR); Carl Schroeder, Association of Washington Cities; and Maggie Yuse, Seattle Public Utilities.

(Other) Peter Lyon, Washington Department of Ecology, Solid Waste Management Program; Peter Godlewski, Association of Washington Business; Dylan de Thomas, Coalition of High Performance Recycling (CHPR); Brandon Houskeeper; and Travis Dutton, Washington State Association of Counties.

**Persons Signed In To Testify But Not Testifying:** None.