

---

## Environment & Energy Committee

---

### HB 1607

**Brief Description:** Concerning recycling and waste reduction.

**Sponsors:** Representatives Stonier, Waters, Fitzgibbon, Peterson, Ramel, Parshley, Reed, Reeves, Kloba, Duerr, Zahn and Fosse.

<p style="text-align: center;"><b>Brief Summary of Bill</b></p> <ul style="list-style-type: none"><li>• Requires beverage brands to form a producer responsibility organization to fund and implement a 10 cent refund value redemption program for beverage containers.</li></ul>
--



**Hearing Date:** 2/3/25

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

**Background:**

Solid Waste Management.

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

---

*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.*

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.

The Legislature has enacted laws that require the establishment of extended producer responsibility or product stewardship (EPR) programs for the management of six types of products: (1) electronic products; (2) light bulbs that contain mercury, such as compact fluorescent lights; (3) photovoltaic solar panels; (4) pharmaceuticals; (5) paint; and (6) batteries.

In general, the state's EPR programs require producers to participate in a stewardship organization or program that is responsible for the collection, transport, and end-of-life management of covered products. Ecology is responsible for the oversight of the state's EPR programs, with the exception of the Pharmaceutical Stewardship Program, which is overseen by the Department of Health.

#### Litter Tax and Business and Occupation Tax.

The Waste Reduction, Recycling, and Litter Control Act (WRRLCA), dating back to 1971, prohibits littering and establishes statewide programs to prevent and clean up litter, reduce waste, and increase recycling. These programs are funded by the 0.015 percent litter tax on manufacturers', wholesalers', and retailers' gross proceeds on 13 categories of consumer products, including:

- food and groceries;
- beverages;
- cigarettes and tobacco products;
- newspapers and magazines;
- household paper and paper products;
- glass, metal, and plastic containers;
- cleaning agents; and
- nondrug drugstore sundry products.

Programs funded by the litter tax under the WRRLCA include: litter collection efforts by state agencies including Ecology, and state assistance of local government waste reduction, composting, and recycling programs.

Washington imposes a Business and Occupation tax (B&O tax) on the gross receipts of business activities conducted within the state. The B&O tax revenues are deposited into the State General Fund. There are several categories of B&O tax rates that apply to businesses engaged in different activities.

State law provides for a range of tax preferences that confer reduced tax liability upon a designated class of taxpayer. Tax preferences include tax exclusions, deductions, exemptions, preferential tax rates, deferrals, and credits. Legislation that establishes or expands a tax preference must include a Tax Preference Performance Statement that identifies the public policy objective of the preference, as well as specific metrics that the Joint Legislative Audit and Review Committee can use to evaluate the effectiveness of the preference.

Other.

The Pollution Control Hearings Board (PCHB) is an appeals board with jurisdiction to hear appeals of certain decisions, orders, and penalties issued by Ecology and several other state agencies. Parties aggrieved by a PCHB decision may obtain subsequent judicial review.

**Summary of Bill:**

Producer Program for Beverage Containers.

By March 1, 2026, each producer of covered beverage containers must appoint a recycling refund producer responsibility organization (PRO) for its covered materials. Covered beverage containers mean any beverage container subject to a recycling refund, including glass, plastic, or metal cans or bottles with a capacity of one gallon or less. The producer of a covered beverage container is the brand owner responsible for the brand visible on the beverage container. By May 1, 2026, a PRO must register with the Department of Ecology (Ecology) on behalf of its producers.

Producers are assigned specified duties, including participating in a registered PRO, and providing the PRO with specified information and an adequate refund value to cover existing or projected refund liabilities associated with the brand, other than on-site consumption sales. Producers that do not comply with obligations may not sell or supply covered beverage containers in Washington.

The PROs are assigned specified obligations, including:

- the establishment of a fee structure to fund initial implementation of the program until a program plan is approved by Ecology;
- the submission of specified information;
- the submission of a plan and annual reports to Ecology for approval; and
- carrying out other specified administrative and coordinating duties, including the maintenance of a website.

The PRO's plan to implement a program for covered beverage containers must include 14 categories of information, including:

- proposed targets and deadlines for reuse and refill to be achieved;
- a quantitative convenience standard based on a combination of time, distance, and other measurable factors to ensure consumers who pay a refund value have convenient redemption opportunities, equitable access that uses multiple redemption modalities and accounts for population density and beverage sales, and relies upon a broad range of entities that opt to serve as redemption locations;
- a description of performance targets for redemption, recycling, and reuse and refill, and how those performance targets will be measured;
- how the program will conduct certain education and outreach activities; and
- a description of how the PRO will establish partnerships with nonprofit organizations.

Covered beverage containers have a refund value of 10 cents, which must be separately stated on receipts or billing documents given to consumers. Retail establishments must charge the refund value of covered beverage containers and must state the refund value separately on a receipt or billing document given to a customer. A PRO is not required to pay refund values for covered beverage containers that are visibly contaminated with foreign substances, are damaged to the extent that the container's brand cannot be identified, or that the PRO has reasonable grounds to believe were not purchased in Washington. A PRO may use unredeemed refund values for education and outreach to encourage redemption activity, to improve existing redemption rates, increasing the number of redemption sites, or other activities described in the plan that contribute to achieving performance requirements and convenience standards. For the first PRO plan period, a PRO must make a monthly payment directly to each material recovery facility based on data submitted by the facility, equivalent to at least 50 percent of the refund value of covered beverage containers for each covered beverage container material that the facility transferred to materials processing or end markets. Material recovery facilities must share these payments with their customers.

Redemption sites must collect all covered beverage containers subject to the 10 cent refund value. Redemption site locations must be fairly compensated through a mutual agreement with the PRO. A sufficient number of redemption sites must be provided to achieve redemption rate performance and convenience requirements. A PRO must facilitate the collection of covered beverage containers from on-site establishments. A PRO must also provide designated return points or avenues allowing consumers to return beverage containers that will be transported to centralized processing facilities, with refunds credited to a consumer's virtual account. These designated return points must be located at convenient locations for consumers. Storage and drop-off containers used for these designated return points are considered temporary mobile containers. Standard bags for bag-drop programs that are made of plastic film must meet minimum postconsumer recycled content standards and be recycled at responsible end markets. A PRO may administer a program for nonprofit organizations to participate in the refund redemption programs, and may administer a program to accept direct sorted returns in large volume quantities that are returned by nonprofit organizations that serve very low-income individuals.

The PRO must achieve a 65 percent redemption rate by the end of year two of the program, 80

percent by the end of year five of the program, and must develop a reuse and refill performance target that increases each year after the first plan period.

Ecology is given specified administrative and enforcement roles with respect to the PRO's operations, including:

- the review and approval of PRO plans that meet specified standards;
- the review and approval of PRO annual reports that meet specified standards;
- the appointment of a 13-member recycling refund advisory council, which is given specified duties with respect to PRO operations; and
- enforcement of producer and PRO obligations with respect to covered beverage containers.

#### Reporting.

A PRO must submit an annual report to Ecology containing specified categories of information regarding the PRO's operations, including an evaluation of the convenience of the program. Ecology may require a PRO to arrange for data submitted in its annual report to receive an independent third-party audit, at the PRO's cost. Auditing of data inputs to a PRO, however, is the responsibility of the PRO. A PRO that submits confidential information to Ecology in its annual report 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.

A PRO that fails to meet a performance target must file an explanation of the factors leading to the failure with Ecology, and specifying changes to the PRO's operations, within 90 days of filing an annual report.

Beginning in 2028, material recovery facilities and material processors that receive covered materials must annually report specified information to Ecology regarding the amount of materials and waste managed by the facility or processor, and about the end markets receiving materials from the facility or processor.

#### Fees, Payments, and Penalties.

Beginning in 2026, Ecology must determine an annual registration fee to be paid by a PRO to cover its costs to implement, administer, and enforce covered beverage container requirements. A PRO's annual fees to Ecology must be paid by June 1 of each year.

Ecology may impose civil penalties of up to \$1,000 per violation per day on producers for initial violations, and up to \$10,000 per day per violation for each subsequent violation. Ecology must issue at least one written notice and provide a 60-day period subsequent to the written notice for a producer to come into compliance prior to imposing a penalty.

Ecology may impose civil penalties of up to \$1,000 per violation per day on PROs for initial violation, and up to \$10,000 per day per violation for each subsequent violation.

Ecology may also take other enforcement actions, including issuing orders to producers and PROs, and requiring them to resubmit a plan or report additional information.

Persons may not sell or distribute covered beverage containers of producers who are not in compliance. Ecology must issue at least one written notice and provide a 60-day period subsequent to the written notice for the person to come into compliance prior to imposing a penalty.

Other.

If an EPR program for paper and packaging is enacted, the PRO and the PRO for packaging must create a coordination plan, to ensure the programs are complementary and that all targets are met. The plan must identify actions to jointly optimize infrastructure for reuse and refill programs, contain education and outreach activities, and establish a reciprocal compensation mechanism.

A PRO that arranges redemption, recycling, waste reduction, or reuse services may engage in anticompetitive conduct to the extent necessary to plan for activities to meet obligations with respect to covered beverage containers, and is immune from state antitrust liability and unfair trade practice laws.

Taxpayers may deduct from business and occupation (B&O) taxes the amounts derived from charges for refund values of beverage containers. The litter tax does not apply to refund value charges for beverage containers. For both tax provisions to apply, the charge must be separately stated on a receipt, invoice, or billing document given to the beverage container purchaser. A tax preference performance statement is not required to be prepared for the litter and B&O tax preferences.

**Appropriation:** None.

**Fiscal Note:** Requested on 01/27/2025

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