

# HOUSE BILL REPORT

## HB 1607

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

**Title:** An act relating to recycling and waste reduction.

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

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

**Brief History:**

**Committee Activity:**

Environment & Energy: 2/3/25, 2/18/25 [DPS].

**Brief Summary of Substitute Bill**

- Requires beverage brands to form a producer responsibility organization to fund and implement a 10 cent refund value redemption program for beverage containers.

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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 11 members: Representatives Doglio, Chair; Hunt, Vice Chair; Berry, Duerr, Fitzgibbon, Kloba, Mena, Ramel, Stearns, Street and Wylie.

**Minority Report:** Do not pass. Signed by 8 members: Representatives Dye, Ranking Minority Member; Klicker, Assistant Ranking Member; Abbarno, Abell, Barnard, Ley, Mendoza and Stuebe.

**Minority Report:** Without recommendation. Signed by 2 members: Representatives Fey and Ybarra.

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

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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.*

## **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 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.

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**Summary of Substitute Bill:**

Producer Program for Beverage Containers.

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.

Producers are assigned specified duties, including participating in a registered Producer

Responsibility Organization (PRO) beginning April 15, 2026, paying initial producer fees determined by the 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 PRO is 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 annually to Ecology;
- 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 to be achieved;
- a description of the PRO's plan to achieve proposed redemption, recycling, and reuse performance targets;
- how the program will conduct certain education and outreach activities;
- a description of how the PRO will establish partnerships with nonprofit organizations; and
- a description of proposed express and full-service redemption sites provided by the program, and a demonstration that the program will satisfy 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.

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. The PRO may use unredeemed refund values for education and outreach to encourage redemption activity, to improve existing redemption rates, to increase the number of redemption sites, or for other activities described in the plan that contribute to achieving performance requirements and convenience standards. For the first PRO plan period, the 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 service providers

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. The PRO must facilitate the collection of covered beverage containers from on-site establishments. The PRO must also provide express redemption sites that allow consumers to return beverage containers that will be transported to centralized processing facilities, with refunds credited to a consumer's virtual account. These express redemption sites must be located at convenient locations for consumers. Storage and drop-off containers used for these express redemption sites are considered temporary mobile containers. The PRO must also ensure the establishment of a sufficient number of full-service redemption sites, directly or through partnerships with nonprofit organizations, that allow individuals to receive immediate refunds for returned beverage containers. The 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.

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.

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 achieve a reuse rate 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 14-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.

The PRO must submit an annual report to Ecology beginning in 2029 containing specified categories of information regarding the PRO's operations, including an evaluation of the convenience of the program. Ecology may require the 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 the PRO, however, is the responsibility of the PRO. If the PRO submits confidential information to Ecology in its annual report it 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.

If the PRO fails to meet a performance target it 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 2029, 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.

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 recycling and reuse programs, contain education and outreach activities, and establish a reciprocal compensation mechanism.

The PRO 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 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.

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

As compared to the original bill, the substitute bill:

- exempts beverage containers smaller than 40 milliliters from the deposit return program;
- eliminates the specific information that a PRO must submit to Ecology when registering in 2026;
- eliminates the requirement that producers of beverage containers appoint a PRO, and provides for a single PRO to implement the deposit return program;
- provides an April 1, 2026, deadline for the PRO to establish an initial producer fee structure;
- amends the deadline of July 1, 2027, for the PRO to submit a plan to allow for the plan to be submitted 6 months after the adoption of rules by Ecology;
- amends the duties of the PRO, including by adding a duty to notify Ecology of fraudulent activity and to eliminate a duty to assist service providers in identifying responsible end markets for the management of beverage containers;
- amends the content of the PRO plan that must be submitted to Ecology, including by requiring a description of the number and distribution of proposed express and full-service redemption sites;
- amends the composition of the advisory council, including by adding a canner or someone who represents a canning organization and by adding a member of the small retail sector;
- requires the PRO to pay refunds on crushed beverage containers if not otherwise broken or damaged to the extent that the brand on the container cannot be identified;
- amends requirements for express redemption sites, including by specifying that express redemption sites must provide refunds credited to a consumer's virtual account once returned beverage containers are counted;
- amends requirements for full-service redemption sites, including by requiring the establishment of a sufficient number of such facilities that allow individuals to return beverage containers and receive immediate refunds to satisfy the convenience standards proposed in the PRO's plan;
- requires Ecology, in its review of convenience standards and the proposed network of redemption sites, to evaluate access in urban areas that is convenient for individuals relying on public transit or nonmotorized transportation, and whether reasonable opportunities are provided for individuals to receive immediate beverage container refunds;
- authorizes the PRO to facilitate the collection of beverage containers from on-site

- establishments by contracting with a third party;
- adds federally recognized Indian tribes, state agencies, and federal agencies to the provisions of the bill authorizing local governments to serve as redemption sites and partnerships to support services for socially vulnerable populations;
- specifies that annual reports from a PRO and from material recovery facilities to Ecology must be submitted starting in 2029, and requires the annual reports to include certain additional information; and
- requires responsible end markets for managing beverage containers and return bags used to support the deposit return program to meet minimum operational standards adopted under the PRO's plan and to manage waste according to the state's waste management hierarchy.

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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) Oregon has implemented a successful bottle return program for decades. This proposal builds from and improves upon programs in other states, and could lead to very high recycling rates that could not be achieved by other policy proposals. This program will lead to convenience for customers in urban and rural areas. A beverage container deposit program would complement an EPR program for packaging. Even though beverage containers have a high recycling value, a significant volume of aluminum cans, plastic bottles, and glass containers still end up being landfilled under the state's current systems. Nine of the top 10 states in the nation with the highest overall recycling rates have bottle deposit programs. The strengthened bottle recycling incentive created by this program will decrease plastic pollution and litter. In addition to recycling, a bottle deposit program will encourage reuse of containers. The program would create economic benefits and help businesses by providing access to recycled content feedstocks. Glass recycling rates are currently very low, and this program would help ensure that glass gets recycled. There is no correlation between bottle deposit programs and petty crime or drug use. Bottle deposit programs can provide a revenue source for people without other means. Customers that return their bottles will get their full refund value back, and the program will not cost them anything.

(Opposed) The bottle deposit program will create a duplicative and inefficient recycling system, and will burden businesses that can currently just recycle used beverage containers at curbside. By requiring consumers to do extra work to get their 10 cent deposit back, a bottle deposit program functions as a regressive tax that is especially impactful to those that

would need to walk or take a bag full of containers on a bus to a return center. Beverage container return centers are unlikely to be convenient in rural areas. Washington already has an overall recycling rate comparable to Oregon's, even without a beverage container deposit program. Grocery stores do not want to host beverage container return locations, and will require staff time to maintain and clean up. A PRO is unlikely to provide adequate maintenance and attention to each beverage return location to ensure that is operating to the satisfaction of host retailers. The section providing immunity from antitrust law is an unconstitutional amendment of other state laws by reference.

(Other) Proponents of a bottle deposit program have made numerous changes to allay concerns of grocery stores, but grocery stores still have concerns that a program will ultimately need to rely on grocery stores to serve as return locations in order to meet convenience standards. Retail stores do not want to serve as host sites. The provisions for host site reimbursement are not sufficient to guarantee full cost reimbursement. One penny from each container's deposit should go to counties to help allay negative impacts on county solid waste program finances. Ecology has submitted suggestions for how this program could be made more implementable, and to align with bottle deposit programs in other states.

**Persons Testifying:** (In support) Representative Monica Jurado Stonier, prime sponsor; Hannah Martinez, Indorama Ventures; James Toner, International Bottled Water Association; Megan Lane, Coalition for High Performance Recycling; Scott DeFife, Glass Packaging Institute; Liz Donohue, Primo Brands; Francisco Castillo, Diageo; Fiona Bell, Novelis; Taylor Cass Talbott, GroundScore; Dr. Anja Brandon, Ocean Conservancy; Sydney Harris, Upstream; Kate Bailey, Association for Plastic Recyclers; Nora Palattao Burnes, WA Beer and Wine Distributors Association; Curt Wells, The Aluminum Association - representing the US aluminum industry; Chris Brown, Pierce County Sustainable Resources; Dylan de Thomas, The Recycling Partnership; Maggie Yuse, Seattle Public Utilities; Heather Trim, Zero Waste Washington; and Peter Steelquist, Surfrider.

(Opposed) Jay Balasbas, Basin Disposal and Consolidated Disposal Services Inc.; Brian Coddington, Sunshine Disposal and Recycling; Samantha Louderback, Washington Hospitality Association; Vicki Christophersen, Washington Refuse and Recycling Association; Lyset Cadena, WM (Waste Management); Katie Beeson, Washington Food Industry Association (WFIA); Rick Vahl, Waste Connections; Sam Spiegelman, Citizen Action Defense Fund; and Wendy Weiker, Republic Services.

(Other) Mark Johnson, Washington Retail Association; Peter Lyon, Washington Department of Ecology, Solid Waste Management Program; Travis Dutton, Washington State Association of Counties; Brad Boswell, Washington Beverage Association; and Brandon Houskeeper, NW Grocery Retail Association.

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