SENATE BILL REPORT
SB 5058

As of January 27, 2025

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: Senators Chapman, Wellman, Harris, Boehnke, Cleveland, Dozier, Krishnadasan, Liias and Nobles.

Brief History:
Committee Activity: Environment, Energy & Technology: 1/29/25.

Brief Summary of Bill

- Requires The Department of Ecology (Ecology) to develop a statewide list of recyclable materials suitable for curbside collection.
- Requires a statewide needs assessment informed by the recycling targets in the 2023 Ecology report.
- Requires all producers of covered products to register with Ecology and pay a fee.
- Modifies the minimum postconsumer recycled content requirements.
- Establishes criteria and processes for the Utilities and Transportation Commission to approve solid waste collection rate discounts for low-income persons.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

Staff: Alicia Kinne-Clawson (786-7407)

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 in Washington. Under the state's solid waste management laws, local governments are the primary entities 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 must work cooperatively with local governments as they develop their local solid waste management plans. County and city solid waste management plans must contain certain elements, including a waste reduction and recycling element, and a recycling contamination reduction and outreach plan.

The Utilities and Transportation Commission (UTC) regulates haulers transporting solid waste, garbage, and recyclables from residential sites. The certificate to transport garbage and recyclables sets the geographic areas in which the company is authorized to collect waste. Cities and towns have the authority to provide their own solid waste services or to contract for those services. Solid waste services provided or contracted by cities and towns 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.

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 post-consumer 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 producer of packaging and paper products (PPP) 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 $0.20 per pound of plastic below the amount of PCRC plastic needed to achieve minimum PCRC requirements

Summary of Bill: Statewide Lists. By October 1, 2026 Ecology must develop and publish a list of recyclable materials suitable for curbside residential collection and residential drop-off collection. The list must be reviewed and updated every five years.

The initial list of materials for curbside collection includes paper products, aluminum cans, high-density polyethylene plastic containers and polyethylene terephthalate (PET) containers. The initial list of materials suitable for drop-off collection is glass and flexible plastic. Criteria is provided for Ecology to use in determining additional materials that may be included on the statewide lists.

Needs Assessment. Ecology must complete a statewide needs assessment by October 1, 2027. In completing the needs assessment, every solid waste planning district must be consulted. The needs assessment must be carried out by a third-party consultant and 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.

The needs assessment must:
- evaluate the capacity, costs, gaps, and needs to meet the recycling goals established by this act;
- provide information about the availability, types, methods, infrastructure, and levels of services currently provided for single family and multifamily residential recycling;
- evaluate what new or expanded services, infrastructure, education and outreach, or other investments are necessary to meet the recycling performance targets;
- compile information related to the costs of providing curbside services, the environmental impacts of providing that service, and other variables related to expanding service to meet state recycling targets; and
- include meaningful consultation with overburdened communities and vulnerable populations.

Producer Registration. Beginning January 1, 2026, a producer that offers for sale, sells, or distributes in or into Washington covered products must register with Ecology individually or through a third-party representative registering on behalf of a group of producers. Producers are defined to include specified entities associated with covered PPP. Producers do not include government entities, nonprofit organizations, or entities that sell, distribute, or import de minimus volumes of covered PPP.

By April 1, 2026, and annually thereafter, producers must submit a fee payment as determined by Ecology.

Beginning April 1, 2027 each producer of covered products must provide an annual report to Ecology that includes, by material category, the volume in pounds of covered PPP sold, offered for sale, or distributed into Washington during the prior 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.

Department of Ecology Oversight. By January 31, 2026, and annually thereafter, Ecology must prepare a workload analysis for public comment that identifies the costs to implement, administer, and enforce this chapter. Ecology must determine an annual fee payment by producers to cover the workload and send notice to producers regarding the fee.

Ecology may assess a penalty of not more than $1,000 for each day that a producer is not in compliance with the registration and fee payment requirements. Penalties are appealable to the pollution control hearings board.

Advisory Committee. Ecology is responsible for appointing members to the advisory committee and providing staff support and facilitation. The advisory committee is comprised of 24 members representing various constituencies as defined in the chapter. The advisory committee must meet at least once every three months and responsibilities include:

- advising and making recommendations on the statewide recycling lists;
- advising on the scope of the statewide needs assessment;
- reviewing the statewide needs assessments prior to their completion;
- reviewing the department's implementation and administration of the producer registration and reporting requirements; and
- providing input, review, and comment on Ecology's proposed rules.

Truth in Labeling Task Force. The Truth in Labeling Task Force is established as a subcommittee of the advisory committee. The task force must study and evaluate misleading or confusing claims regarding the recyclability of products. The task force must make recommendations to the Legislature for the development of recyclability labeling standards and requirements. Ecology must transmit a final report and recommendations from the take force to the Legislature by June 1, 2026.

Postconsumer Recycled Content Standards. New PCRC requirements are established for the following products.

Polypropylene tubs:

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

Single-use plastic cups made of:

- polypropylene, which must meet 15 percent PCRC requirements in 2032, and 25 percent beginning in 2034; and
- PET and polystyrene, which must meet 20 percent PCRC requirements from 2034 through 2035, and 30 percent PCRC beginning in 2036.

PET thermoform plastic containers, which include PCRC standards of:

- 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; and
- packaging for durable goods must met 30 percent PCRC beginning in 2034.

Ecology may extend the 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 PCRC requirements. Ecology may grant a waiver if the producer demonstrates, and Ecology finds that any of the following are applicable:

- United States Food and Drug Administration requirements, or any other state or federal law prohibit compliance with the PCRC requirements;
- it is not technically feasible for the producer to achieve the PCRC requirements; or
- the producer cannot comply due to inadequate availability of recycled material.

Ecology must ensure that any rules adopted pursuant to this chapter do not conflict with regulations issued by the federal government or requirements imposed by other state agencies 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 beverage container caps and lids are subject to PCRC requirements, beginning in 2026;
- 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.

Solid Waste Collection Low-Income Discount Rates. UTC may approve on it's own or by request of a solid waste company the rates, charges, or services at a discount for low-income and low-income senior customers. Such discounts must be provided in coordination with community-based organizations including city and county government, grantees of the Department of Commerce and other community organizations. Eligibility is specified to include certain public benefits programs.

Solid waste collection companies offering low-income discounts are required to conduct outreach at least biannually. Outreach may include establishing an automated program of matching customer accounts with lists of means-tested public benefit programs.

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

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.