

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5284

Chapter 316, Laws of 2025

69th Legislature
2025 Regular Session

SOLID WASTE—PACKAGING AND PAPER PRODUCTS—PRODUCER RESPONSIBILITY

EFFECTIVE DATE: July 27, 2025

Passed by the Senate April 23, 2025
Yeas 27 Nays 21

DENNY HECK

President of the Senate

Passed by the House April 14, 2025
Yeas 51 Nays 45

LAURIE JINKINS

**Speaker of the House of
Representatives**

Approved May 17, 2025 1:55 PM

BOB FERGUSON

Governor of the State of Washington

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE SENATE BILL 5284** as passed by the Senate and the House of Representatives on the dates hereon set forth.

SARAH BANNISTER

Secretary

FILED

May 19, 2025

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5284

AS AMENDED BY THE HOUSE

Passed Legislature - 2025 Regular Session

State of Washington

69th Legislature

2025 Regular Session

By Senate Ways & Means (originally sponsored by Senators Lovelett, Shewmake, Nobles, Bateman, Salomon, Saldaña, Stanford, C. Wilson, Frame, Pedersen, Hasegawa, Llias, Orwall, Slatter, and Valdez)

READ FIRST TIME 02/28/25.

1 AN ACT Relating to improving Washington's solid waste management
2 outcomes; amending RCW 70A.205.045, 70A.205.500, 81.77.030,
3 81.77.160, 81.77.185, and 70A.245.100; reenacting and amending RCW
4 43.21B.110, 43.21B.300, and 49.48.082; adding a new section to
5 chapter 49.46 RCW; adding a new chapter to Title 70A RCW; creating
6 new sections; prescribing penalties; and providing an expiration
7 date.

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

9 NEW SECTION. **Sec. 101.** FINDINGS—INTENT. (1) The legislature
10 finds that, as of 2025:

11 (a) Washington's statewide waste recovery rate has been generally
12 static since 2011 and Washington is not meeting the statewide goal of
13 50 percent recycling established in 1989; and

14 (b) Many residents, particularly those who live in rural areas
15 and in multifamily residences, do not have access to convenient or
16 affordable curbside recycling, and must rely on taking recyclables to
17 drop box locations, and that extended producer responsibility
18 programs could make curbside recycling available and affordable for
19 most people in the state.

20 (2)(a) It is the intent of the legislature to require extended
21 producer responsibility programs for consumer packaging and paper

1 products to be implemented in a manner that involves producers in
2 material management from design concept to end of life.

3 (b) It is intended that these programs be responsibly planned and
4 funded in a manner that minimizes negative impacts to the environment
5 and minimizes risks to public health and worker health and safety. It
6 is also intended that these programs build and expand on the existing
7 waste and recycling system's infrastructure and reliance on the
8 authority of local governments and the utilities and transportation
9 commission in solid waste management.

10 (c) It is the intent of the legislature that Washington should
11 maintain the successful public-private partnership between state,
12 local government, and solid waste and recycling service providers.
13 The legislature does not intend to diminish or displace the primary
14 role of the utilities and transportation commission and local
15 governments in regulating or contracting directly with service
16 providers for the curbside collection of residential recyclables.
17 Local governments maintain their existing authority to collect,
18 contract for collection with solid waste and recycling service
19 providers, or defer to solid waste collection services regulated by
20 the utilities and transportation commission.

21 (3) It is the intent of the legislature for the 2029 legislature
22 to consider the draft plans submitted by producer responsibility
23 organizations to the department of ecology in October 2028, prior to
24 the approval of such plans by the department of ecology taking
25 effect. It is the intent of the legislature for the 2029 legislature
26 to consider the draft plans submitted in October 2028 and the
27 independent analysis carried out by January 2029, of those submitted
28 draft plans, in order for the 2029 legislature to determine whether
29 to amend the requirements of this chapter, to make other recycling
30 policy changes including the potential establishment of a bottle
31 deposit return program, or to allow that the proposed plan and
32 program under this chapter be implemented in full.

33 NEW SECTION. **Sec. 102.** DEFINITIONS. The definitions in this
34 section apply throughout this chapter unless the context clearly
35 requires otherwise.

36 (1) "Advisory council" means the council established in section
37 105 of this act.

38 (2) "Alternative recycling process" means a recycling process
39 that occurs other than through purely physical means.

1 (3) (a) "Beverage" means a drinkable liquid intended for human
2 oral consumption.

3 (b) "Beverage" does not include: (i) A drug regulated under the
4 federal food, drug, and cosmetic act, 21 U.S.C. Sec. 301 et seq.;
5 (ii) 100 percent fluid milk; (iii) infant formula; or (iv) a meal
6 replacement liquid.

7 (4) "Beverage container" means any container in which a producer
8 originally prepackaged and sealed a beverage.

9 (5) "Brand" means a name, symbol, word, logo, or mark that
10 identifies an item and attributes the item and its components,
11 including packaging, to the brand owner of the item.

12 (6) "Collection rate" means the amount of a covered material by
13 covered materials type collected by service providers and transported
14 for recycling or composting divided by the total amount of the type
15 of a covered material by covered materials type introduced by the
16 relevant unit of measurement established in the plan.

17 (7) "Compostable" means a product that is capable of composting
18 in a composting system and is in compliance with the requirements for
19 a product labeled as compostable under chapter 70A.455 RCW.

20 (8) "Composting" means the controlled microbial degradation of
21 source separated compostable materials to yield a humus-like product.

22 (9) "Composting rate" means the amount of compostable covered
23 material that is managed through composting, divided by the total
24 amount of compostable covered material introduced by the relevant
25 unit of measurement.

26 (10) "Composting system" means a system meeting the requirements
27 of chapter 70A.205 RCW applicable to facilities that treat solid
28 waste for composting.

29 (11) "Contamination" means:

30 (a) The presence of materials that are not on the list of
31 materials collected in that material stream; or

32 (b) The presence of materials that are not specified or accepted
33 as a component of the feedstock or commodity.

34 (12) "Covered entity" means a person or location that receives
35 covered services for covered materials in accordance with the
36 requirements of this chapter, including:

37 (a) A single-family residence;

38 (b) A multifamily residence; and

1 (c) A public place where a government entity managed recycling
2 collection receptacles as of August 1, 2025, and any additional
3 public place identified in an approved plan.

4 (13)(a) "Covered material" means packaging and paper products
5 introduced into the state.

6 (b) "Covered material" does not include exempt materials.

7 (14) "Covered materials type" means a singular and specific type
8 of material, such as paper, plastic, metal, or glass, that is a
9 covered material and that:

10 (a) May be categorized based on distinguishing chemical or
11 physical properties, including properties that allow a covered
12 materials type to be aggregated into a discrete commodity category
13 for purposes of reuse, recycling, or composting; and

14 (b) Is based on similar uses in the form of a product or
15 packaging.

16 (15)(a) "Covered services" means collecting, transferring,
17 transporting, sorting, processing, recovering, preparing, or
18 otherwise managing for purposes of waste reduction, refill, reuse,
19 recycling, composting, or disposal of contamination or residuals.

20 (b) Except with regard to contamination, "covered services" do
21 not include:

22 (i) Resource recovery through mixed municipal solid waste
23 composting or incineration; or

24 (ii) Land disposal.

25 (16) "De minimis producer" means a producer that:

26 (a) In their most recent fiscal year introduced less than one ton
27 of covered materials;

28 (b) Has a global gross revenue, not including on-premises alcohol
29 sales, for the prior fiscal year of:

30 (i) Until January 1, 2031, less than \$5,000,000; or

31 (ii) Beginning January 1, 2031, less than \$5,000,000, as adjusted
32 for inflation. The department must use the consumer price index for
33 urban wage earners to calculate the annual rate of inflation
34 adjustment effective January 1st of each year, beginning January 1,
35 2031; or

36 (c) Is an agricultural employer, as defined in RCW 19.30.010,
37 regardless of where the agricultural employer is located, with less
38 than \$5,000,000, as adjusted for inflation as described in (b) of
39 this subsection, in gross revenue in Washington from consumer sales

1 of agricultural commodities sold under the brand name of the
2 agricultural employer.

3 (17) "Department" means the department of ecology.

4 (18) "Drop-off collection site" means a physical location where
5 covered materials are accepted from the public and that is open a
6 minimum of 12 hours weekly throughout the year.

7 (19) "Exempt materials" means materials, or any portion of
8 materials, that are:

9 (a) Packaging for infant formula, as defined in 21 U.S.C. Sec.
10 321(z);

11 (b) Packaging for medical food, as defined in 21 U.S.C. Sec.
12 360ee(b)(3);

13 (c) Packaging for a fortified oral nutritional supplement used by
14 persons who require supplemental or sole source nutrition to meet
15 nutritional needs due to special dietary needs directly related to
16 cancer, chronic kidney disease, diabetes, malnutrition, or failure to
17 thrive, as those terms are defined by the *International*
18 *Classification of Diseases*, tenth revision;

19 (d) Packaging for a product regulated as a drug, medical device,
20 or dietary supplement by the United States food and drug
21 administration, including associated components and consumable
22 medical equipment, under the federal food, drug, and cosmetic act (21
23 U.S.C. Sec. 321 et seq.), or a product regulated as a biologic or
24 vaccine by the United States food and drug administration under the
25 public health service act (42 U.S.C. Sec. 201 et seq.);

26 (e) Packaging for a medical equipment or product used in medical
27 settings that is regulated by the United States food and drug
28 administration, including associated components and consumable
29 medical equipment;

30 (f) Packaging for drugs, biological products, parasitocides,
31 medical devices, or in vitro diagnostics that are used to treat, or
32 that are administered to, animals and are regulated by the United
33 States food and drug administration under the federal food, drug, and
34 cosmetic act (21 U.S.C. Sec. 301 et seq.) and by the United States
35 department of agriculture under the federal virus-serum-toxin act (21
36 U.S.C. Sec. 151 et seq.);

37 (g) Noncompostable film plastic packaging used in direct contact
38 with raw meat;

1 (h) Packaging for products regulated by the United States
2 environmental protection agency under the federal insecticide,
3 fungicide, and rodenticide act (7 U.S.C. Sec. 136 et seq.);

4 (i) Packaging used to contain liquefied petroleum gas and are
5 designed to be refilled;

6 (j) Packaging used to contain hazardous or flammable products
7 classified by the 2012 federal occupational safety and health
8 administration hazard communication standard, 29 C.F.R. Sec.
9 1910.1200 (2024), that prevent the packaging from being reduced or
10 made reusable, recyclable, or compostable, as determined by the
11 department;

12 (k) Packaging that is associated with products managed through a
13 paint stewardship plan approved under chapter 70A.515 RCW;

14 (l) Excluded materials, as determined by the department under
15 section 126 of this act;

16 (m) Used to protect or store a durable product for a period of at
17 least five years;

18 (n) Packaging used for bulk construction materials;

19 (o) Covered materials that:

20 (i) A producer distributes to another producer;

21 (ii) Are subsequently used to contain a product and the product
22 is distributed to a commercial or business entity for the production
23 of another product; and

24 (iii) Are not introduced to a person other than the commercial or
25 business entity that first received the product used for the
26 production of another product; and

27 (p) Covered materials for which the producer demonstrates to the
28 department that the covered material meets all of the following
29 criteria:

30 (i) The material is not collected through a residential recycling
31 collection service;

32 (ii) The material is recycled at a responsible market;

33 (iii) The material is intended to be used and collected within a
34 commercial setting;

35 (iv) (A) The producer annually demonstrates to the department that
36 the material has had a state recycling rate of 65 percent for three
37 consecutive years, until December 31, 2029. Beginning January 1,
38 2030, the producer must demonstrate to the department every two years
39 that the material has had a state recycling rate of at least 70
40 percent annually; or

1 (B) The producer annually demonstrates to the department that the
2 material is directly managed by the producer and has had a reuse or
3 recycling rate of 65 percent for three consecutive years, until
4 December 31, 2029. Beginning January 1, 2030, the producer must
5 demonstrate to the department every two years that the material
6 controlled by the producer has had a reuse or recycling rate of at
7 least 70 percent annually; and

8 (v) If only a portion of the material sold in or into the state
9 by a producer meets the criteria of (p)(i) of this subsection, only
10 the portion of the material that meets that criteria is an exempt
11 material and any portion that does not meet the criteria is a covered
12 material for purposes of this chapter.

13 (20) "Government entity" means any:

14 (a) County, city, town, or other local government, including any
15 municipal corporation, quasi-municipal corporation, or special
16 purpose district, or any office, department, division, bureau, board,
17 commission, or agency thereof, or other local public agency;

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

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

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

24 (21) "Individual plan" means a plan submitted by a producer that
25 registers with the department as a producer responsibility
26 organization to address the covered materials of the producer.

27 (22) "Introduce" means to sell, offer for sale, distribute, or
28 ship a product within or into this state.

29 (23) "Material recovery facility" means any facility that
30 receives, compacts, repackages, or sorts source separated solid waste
31 for the purpose of recycling.

32 (24) "Overburdened communities" means the overburdened
33 communities identified and prioritized by the department under RCW
34 70A.02.050(1)(a).

35 (25)(a) "Packaging" means a material, substance, or object that
36 is used to protect, contain, transport, serve, or facilitate delivery
37 of a product and is sold or supplied with the product to the consumer
38 for personal, noncommercial use.

39 (b) "Packaging" does not include exempt materials.

1 (26) "Paper product" means paper sold or supplied to a consumer
2 for personal, noncommercial use, including flyers, brochures,
3 booklets, catalogs, magazines, printed paper, and all other paper
4 materials except for: (a) Bound books; (b) conservation-grade and
5 archival-grade paper; (c) newspapers, including supplements or
6 enclosures; (d) magazines that have a circulation of fewer than
7 95,000 and that includes content derived from primary sources related
8 to news and current events; (e) copy paper; (f) paper for use in
9 building construction; and (g) paper that could reasonably be
10 anticipated to become unsafe or unsanitary to handle.

11 (27)(a) "Plastic source reduction" means the reduction in the
12 amount of covered plastic material introduced by a producer relative
13 to a baseline year of 2023, or relative to an alternative baseline
14 year of no earlier than 2013 where a producer submits data
15 documenting the plastic source reduction to a producer responsibility
16 organization. Methods of source reduction include, but are not
17 limited to, shifting covered material to reusable or refillable
18 packaging or a reusable product, eliminating unnecessary packaging,
19 or reducing the packaging to product ratio. "Plastic source
20 reduction" must include elimination, which means the removal of
21 plastic covered materials.

22 (b) "Plastic source reduction" does not include either of the
23 following:

24 (i) Replacing a recyclable or compostable covered material with a
25 nonrecyclable or noncompostable covered material or a covered
26 material that is less likely to be recycled or composted; or

27 (ii) Switching from virgin covered material to postconsumer
28 recycled content, except as allowed under an alternative compliance
29 formula in section 115(6) of this act.

30 (28) "Postconsumer recycled content" has the same meaning as
31 defined in RCW 70A.245.010.

32 (29)(a) "Producer" means the following person responsible for
33 compliance with requirements under this chapter for a covered
34 material introduced into the state:

35 (i) For items sold in or with packaging at a physical retail
36 location in this state:

37 (A) If the item is sold in or with packaging under the brand of
38 the item manufacturer or is sold in packaging that lacks
39 identification of a brand, the producer is the person that
40 manufactures the item;

1 (B) If there is no person to which (a)(i)(A) of this subsection
2 applies, the producer is the person that is licensed to manufacture
3 and sell or offer for sale to consumers in this state an item with
4 packaging under the brand or trademark of another manufacturer or
5 person;

6 (C) If there is no person to which (a)(i)(A) or (B) of this
7 subsection applies, the producer is the brand owner of the item;

8 (D) If there is no person described in (a)(i)(A), (B), or (C) of
9 this subsection within the United States, the producer is the person
10 who is the importer of record for the item into the United States for
11 use in a commercial enterprise that sells, offers for sale, or
12 distributes the item in this state; or

13 (E) If there is no person described in (a)(i)(A) through (D) of
14 this subsection, the producer is the person that first distributes
15 the item in or into this state;

16 (ii) For items sold or distributed in packaging in or into this
17 state via e-commerce, remote sale, or distribution:

18 (A) For packaging used to directly protect or contain the item,
19 the producer of the packaging is the same as the producer identified
20 under (a)(i) of this subsection; and

21 (B) For packaging used to ship the item to a consumer, the
22 producer of the packaging is the person that packages the item to be
23 shipped to the consumer;

24 (iii) For packaging that is a covered material and is not
25 included in (a)(i) and (ii) of this subsection, the producer of the
26 packaging is the person that first distributes the item in or into
27 this state;

28 (iv) For paper products that are magazines, catalogs, telephone
29 directories, or similar publications, the producer is the publisher;

30 (v) For paper products not described in (a)(iv) of this
31 subsection:

32 (A) If the paper product is sold under the manufacturer's own
33 brand, the producer is the person that manufactures the paper
34 product;

35 (B) If there is no person to which (a)(v)(A) of this subsection
36 applies, the producer is the person that is the owner or licensee of
37 a brand or trademark under which the paper product is used in a
38 commercial enterprise, sold, offered for sale, or distributed in or
39 into this state, whether or not the trademark is registered in this
40 state;

1 (C) If there is no person to which (a)(v)(A) or (B) of this
2 subsection applies, the producer is the brand owner of the paper
3 product;

4 (D) If there is no person described in (a)(v)(A), (B), or (C) of
5 this subsection within the United States, the producer is the person
6 that imports the paper product into the United States for use in a
7 commercial enterprise that sells, offers for sale, or distributes the
8 paper product in this state; or

9 (E) If there is no person described in (a)(v)(A) through (D) of
10 this subsection, the producer is the person that first distributes
11 the paper product in or into this state;

12 (vi) A person is the "producer" of a covered material sold,
13 offered for sale, or distributed in or into this state, as defined in
14 (a)(i) through (v) of this subsection, except:

15 (A) Where another person has mutually signed an agreement with a
16 producer as defined in (a)(i) through (v) of this subsection that
17 contractually assigns responsibility to the person as the producer,
18 and the person has joined a registered producer responsibility
19 organization as the responsible producer for that covered material
20 under this chapter. If another person is assigned responsibility as
21 the producer under this subsection, the producer under (a)(i) through
22 (v) of this subsection must provide written certification of that
23 contractual agreement to the producer responsibility organization.
24 The following persons are not eligible to be the assigned recipient
25 of responsibility as a producer under this subsection: (I) A person
26 who produces an agricultural commodity introduced under the brand or
27 trademark of another manufacturer or person; or (II) a distributor of
28 a beverage sold in a beverage container; and

29 (B) If the producer described in (a)(i) through (v) of this
30 subsection is a business operated wholly or in part as a franchise,
31 the producer is the franchisor, if that franchisor has franchisees
32 that have a commercial presence within the state.

33 (b) "Producer" does not include:

34 (i) Government entities;

35 (ii) Registered 501(c)(3) charitable organizations and 501(c)(4)
36 social welfare organizations; or

37 (iii) De minimis producers.

38 (30) "Producer responsibility organization" means:

39 (a) A nonprofit organization that qualifies for a tax exemption
40 under 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code

1 and is designated by a producer or group of producers to fulfill the
2 requirements of this chapter;

3 (b) A producer that registers with the department as a producer
4 responsibility organization and implements an individual plan
5 addressing the covered materials of the producer; or

6 (c) An organization as defined by the department by rule.

7 (31) "Program" means the activities conducted to implement an
8 approved plan.

9 (32)(a) "Public place" means an indoor or outdoor location open
10 to and generally used by the public and to which the public is
11 permitted to have access including, but not limited to, streets,
12 sidewalks, plazas, town squares, public parks, beaches, forests, or
13 other public land open for recreation or other uses, and
14 transportation facilities such as bus and train stations, airports,
15 and ferry terminals.

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

19 (33) "Recycling" means transforming or remanufacturing covered
20 materials into usable or marketable materials for use other than
21 landfill disposal or incineration and does not include reuse or
22 composting.

23 (34) "Recycling rate" means the amount of covered materials, in
24 aggregate or by individual covered materials type, delivered to
25 responsible markets for recycling in a calendar year divided by the
26 total amount of covered materials introduced by the relevant unit of
27 measurement and excluding covered materials that are reusable or
28 compostable.

29 (35) "Refill" means the continued use of a covered material by a
30 consumer through a system that is:

31 (a) Intentionally designed and marketed for repeated filling of a
32 covered material to reduce demand for new production of the covered
33 material;

34 (b) Supported by adequate logistics and infrastructure to provide
35 convenient access to consumers; and

36 (c) Compliant with all applicable federal, state, and local
37 statutes, rules, ordinances, and other laws governing health and
38 safety.

39 (36) "Responsible market" means an entity that:

1 (a) First produces and sells, transfers, or uses recycled organic
2 product or recycled content feedstock that meets the quality
3 standards necessary to be used in the creation of new or
4 reconstituted products;

5 (b) Complies with all applicable federal, state, and local
6 statutes, rules, ordinances, and other laws governing environmental,
7 health, safety, and financial responsibility;

8 (c) If the market operates in the state, manages waste according
9 to the state's solid waste management hierarchy established in RCW
10 70A.205.005; and

11 (d) Meets the minimum operational standards adopted under a
12 producer responsibility organization plan to protect the environment,
13 public health, worker health and safety, and minimize adverse impacts
14 to socially vulnerable populations.

15 (37) "Responsible producer" means a producer that is not a de
16 minimis producer.

17 (38) "Retail establishment" includes any person, corporation,
18 partnership, business, facility, vendor, organization, or individual
19 that sells or provides merchandise, goods, or materials directly to a
20 customer.

21 (39) "Return rate" means the amount of reusable covered material
22 in aggregate or by individual covered materials type, collected for
23 reuse by a producer or service provider in a calendar year, divided
24 by the total amount of reusable covered materials introduced by the
25 relevant unit of measurement.

26 (40) "Reusable" means capable of reuse.

27 (41) "Reuse" means the return of a covered material to the
28 marketplace and the continued use of the covered material by a
29 producer or service provider when the covered material is:

30 (a) Intentionally designed and marketed to be used multiple times
31 for its original intended purpose without a change in form;

32 (b) Designed for durability and maintenance to extend its useful
33 life and reduce demand for new production of the covered material;

34 (c) Supported by adequate logistics and infrastructure at a
35 retail location, by a service provider, or on behalf of or by a
36 producer, that provides convenient access for consumers; and

37 (d) Compliant with all applicable federal, state, and local
38 statutes, rules, ordinances, and other laws governing health and
39 safety.

1 (42) "Reuse rate" means the share of units of a reusable covered
2 material introduced into the state in a calendar year that are
3 demonstrated and deemed reusable in accordance with an approved plan.

4 (43) "Service provider" means an entity that provides covered
5 services for covered materials. A government entity that provides,
6 contracts for, or otherwise arranges for another party to provide
7 covered services for covered materials within its jurisdiction may be
8 a service provider regardless of whether it provided, contracted for,
9 or otherwise arranged for similar services before the approval of the
10 applicable plan.

11 (44) "Socially vulnerable population" means:

12 (a) Any person residing in:

13 (i) A census tract that contains a high overall social
14 vulnerability index as measured using the United States centers for
15 disease control and the agency for toxic substances and disease
16 registry's social vulnerability index, as it existed as of January 1,
17 2025, for the most recent year such data are available; or

18 (ii) As applicable, an alternative population specified in
19 section 127 of this act; or

20 (b) Any person that has an income below the minimum necessary for
21 a household based on family composition in a given geography to
22 adequately meet their basic needs without public or private
23 assistance, as measured by the University of Washington's center for
24 women's welfare, for the most recent year such data are available.

25 (45) "Third-party certification" means certification by an
26 accredited independent organization that a standard or process
27 required by this chapter, or by a plan approved under this chapter,
28 has been achieved.

29 (46) "Toxic substance" means chemicals that are regulated under
30 chapter 70A.222, 70A.350, 70A.430, or 70A.560 RCW.

31 (47) "Vulnerable populations" has the same meaning as defined in
32 RCW 70A.02.010.

33 NEW SECTION. **Sec. 103.** PRODUCER AND PRODUCER RESPONSIBILITY
34 ORGANIZATION REGISTRATION. (1) By January 1, 2026, each producer must
35 appoint a producer responsibility organization or producer
36 responsibility organizations to address its covered materials.

37 (2) By March 1, 2026, and annually thereafter, a producer
38 responsibility organization must register with the department on

1 behalf of its producers. A registration submission by a producer
2 responsibility organization must include the following:

3 (a) Contact information for a person responsible for implementing
4 an approved plan;

5 (b) A list of all member producers that have entered into written
6 agreements to operate under an approved plan by the producer
7 responsibility organization, copies of the written agreements for
8 each member producer and, except in the first year of registration, a
9 list of all brands of each producer's covered materials introduced;

10 (c) A plan for recruiting additional member producers and
11 executing written agreements confirming producers will operate under
12 an approved plan administered by the producer responsibility
13 organization;

14 (d) A list of current board members and the executive director if
15 different than the person responsible for implementing approved
16 plans; and

17 (e) Documentation demonstrating adequate financial responsibility
18 and financial controls to ensure proper management of funds and
19 payment of the annual registration fee to the department.

20 (3) Notwithstanding subsections (1), (2), and (4) of this
21 section, for purposes of the first plan implementation period, the
22 department may not allow registration of more than one producer
23 responsibility organization, other than an individual producer
24 registered as a producer responsibility organization.

25 (4) By September 1, 2026, a producer responsibility organization
26 must submit a one-time payment to the department, and each May 1st
27 thereafter, a producer responsibility organization must submit an
28 annual registration fee to fund all costs of the department to
29 implement, administer, and enforce this chapter, including the costs
30 of the department of labor and industries to implement and enforce
31 section 304 of this act.

32 (5) The following persons are ineligible to serve on the board of
33 the producer responsibility organization or to be hired as an officer
34 or employee of the producer responsibility organization:

35 (a) Any state or local elected official;

36 (b) Any former employee of the department's solid waste program
37 or that worked on solid waste policies for the department, if such an
38 employee has served in that role within the most recent two calendar
39 years; and

(c) Any former state or local elected official that has served in such a role within the most recent two calendar years.

NEW SECTION. **Sec. 104.** PRODUCER AND PRODUCER RESPONSIBILITY ORGANIZATION RESPONSIBILITIES. (1) A producer must:

(a) After July 1, 2026, be a member of a producer responsibility organization registered in this state or register as a producer responsibility organization that will implement an individual plan;

(b) Through a producer responsibility organization, implement and finance a statewide program for packaging and paper products in accordance with this chapter that encourages redesign to reduce environmental impacts and human health impacts and that reduces generation of covered material waste through waste reduction, refill, reuse, recycling, and composting and by providing for the collection, transportation, and processing of used covered materials for reuse, recycling, and composting;

(c) Maintain membership with and pay fees to the producer responsibility organization under which they are registered; and

(d) Comply with all other applicable requirements under this chapter.

(2) Beginning March 1, 2029, a producer that is not a member in good standing with a registered producer responsibility organization or has not submitted an individual plan may not introduce covered materials into the state.

(3) A producer responsibility organization must:

(a)(i) Beginning March 1, 2026, register with the department;

(ii)(A) Except as provided in (a)(ii)(B) of this subsection, by September 1, 2026, submit a one-time payment to the department, to cover the costs of the department under this chapter from the effective date of this section through June 30, 2027, including the costs determined by the department of labor and industries to implement and enforce section 304 of this act;

(B) By September 1, 2026, an individual producer registered as a producer responsibility organization must make a one-time payment in an amount determined by the department to cover any incremental costs to the department under this chapter from the effective date of this section through June 30, 2027, associated with the registration of the individual producer as a producer responsibility organization;

(iii) Beginning May 1, 2027, pay an annual registration fee to the department as required under section 103 of this act;

1 (b) Establish an initial producer fee structure to fund the
2 initial implementation of the program, to be used until the producer
3 responsibility program has an approved plan, and collect fees
4 annually from registered producers;

5 (c) By October 1, 2028, and every five years thereafter, submit a
6 plan that meets the requirements of this chapter to the department
7 for approval;

8 (d) By January 1, 2030, or within six months of plan approval,
9 whichever is later, implement the plan approved by the department;

10 (e) By July 1, 2031, and each July 1st thereafter, submit an
11 annual report to the department for the prior calendar year;

12 (f) Ensure that each producer operating under a plan administered
13 by the producer responsibility organization complies with the
14 requirements of the plan and this chapter;

15 (g) Expel a producer from the producer responsibility
16 organization if efforts to return the producer to compliance with the
17 plan or the requirements of this chapter are unsuccessful and notify
18 the department of the producer's expulsion;

19 (h) Consider and respond in writing to comments received from the
20 advisory council, including justifications for not incorporating
21 advisory council recommendations;

22 (i) Provide producers with information regarding state and
23 federal laws that restrict toxic substances in covered materials or
24 require postconsumer recycled content in covered materials;

25 (j) Notify the department within 30 days of a change made to
26 board membership, to the executive director, or to the contact
27 information for a person responsible for implementing the plan;

28 (k) Assist service providers to identify and use responsible
29 markets;

30 (l) Reimburse service providers in a timely manner, at intervals
31 no longer than monthly unless agreed to by a service provider and a
32 producer responsibility organization;

33 (m) Maintain a website and implement education and outreach
34 activities as required under section 119 of this act; and

35 (n) Comply with all other applicable requirements of this
36 chapter.

37 (4) If more than one producer responsibility organization is
38 established under this chapter, the producers and producer
39 responsibility organizations must establish a coordinating body and
40 process to prevent redundancy. The coordinating body must integrate:

1 (a) Plans of all producer responsibility organizations into a
2 single plan that implements all requirements of this chapter and
3 encompasses all producers when submitted to the department for
4 approval;

5 (b) Annual reports of all producer responsibility organizations
6 into a single annual report that covers all requirements of this
7 chapter and encompasses all producers when submitted to the
8 department; and

9 (c) Payments between all registered producer responsibility
10 organizations to achieve equitable apportionment of funding for the
11 reuse financial assistance program and coordination of that program's
12 administration.

13 (5)(a) Each producer responsibility organization must annually
14 fund and implement a reuse financial assistance program to reduce the
15 negative environmental impacts of covered materials through reuse.
16 The reuse financial assistance program must collectively be funded by
17 registered producer responsibility organizations. The funded amount
18 must be:

19 (i) At least \$5,000,000 beginning in 2029 and adjusted annually
20 thereafter for inflation. The producer responsibility organization
21 must use the consumer price index for urban wage earners to calculate
22 the annual rate of inflation adjustment effective January 1st of each
23 year; and

24 (ii) Sufficient to achieve the reuse and return rate targets and
25 requirements established in section 115 of this act. If at any point
26 the department determines that reuse and return rate targets or
27 statewide requirements are not met, each producer responsibility
28 organization must increase annual contributions to and expenditures
29 from the reuse financial assistance program.

30 (b) Entities eligible for reuse financial assistance include, but
31 are not limited to:

32 (i) Government entities;

33 (ii) Tribal governments;

34 (iii) Nonprofit organizations; and

35 (iv) Private organizations.

36 (c) In administering the reuse financial assistance program, the
37 producer responsibility organization must solicit applications using
38 an open and competitive process and must select applications through
39 an evaluation that considers criteria including, but not limited to:

40 (i) The environmental benefits of the activity;

1 (ii) The human health benefits of the activity;
2 (iii) The social and economic benefits of the activity;
3 (iv) The cost-effectiveness of the activity; and
4 (v) The needs of economically distressed or overburdened
5 communities.

6 (d) The producer responsibility organization must consult with
7 the advisory council in determining the criteria in (c) of this
8 subsection, evaluating and selecting applications, and in
9 administering the reuse financial assistance program under this
10 subsection.

11 (6) A producer responsibility organization may not include on its
12 board of directors, or otherwise be governed by, representatives or
13 affiliates of any public or private entities that submit bids to
14 perform work for the producer responsibility organization or that
15 contract with the producer responsibility organization.

16 (7) The activities authorized by this chapter require
17 collaboration among producers. These activities will enable the waste
18 reduction, collection, recycling, composting, and disposal of covered
19 materials in Washington and are therefore in the best interest of the
20 public. The benefits of collaboration, together with active state
21 supervision, outweigh potential adverse impacts. Therefore, the
22 legislature exempts from state antitrust laws, and provides immunity
23 through the state action doctrine from federal antitrust laws,
24 activities that are undertaken in compliance with and pursuant to
25 this chapter, including activities that are reviewed or approved by
26 the department, that might otherwise be constrained by such laws. The
27 legislature does not intend and does not authorize any person or
28 entity to engage in activities not provided for by this chapter, and
29 the legislature neither exempts nor provides immunity for such
30 activities.

31 NEW SECTION. **Sec. 105.** ADVISORY COUNCIL. (1) The advisory
32 council is established to review all activities conducted by producer
33 responsibility organizations under this chapter and to advise the
34 department and producer responsibility organizations regarding the
35 implementation of this chapter.

36 (2) By January 1, 2026, the department must establish and appoint
37 the initial membership of the advisory council. The membership of the
38 advisory council must consist of the following:

1 (a) Two members representing manufacturers of covered materials
2 or a statewide or national trade association representing those
3 manufacturers;

4 (b) Two members representing recycling facilities that manage
5 covered materials;

6 (c) One member representing a solid waste collection company or a
7 statewide association representing solid waste collection companies;

8 (d) One member representing retailers of covered materials or a
9 statewide trade association representing those retailers;

10 (e) One member representing a statewide nonprofit environmental
11 organization;

12 (f) One member representing a community-based nonprofit
13 environmental justice organization;

14 (g) One member representing entities that own or operate a
15 material recovery facility;

16 (h) One member representing entities that own or operate a waste
17 facility that accepts and processes compostable materials for
18 composting or a statewide trade association that represents those
19 facilities;

20 (i) One member representing an entity that develops or offers for
21 sale covered materials that are designed for reuse or refill and
22 maintained through a reuse or refill system or infrastructure or a
23 statewide or national trade association that represents those
24 entities;

25 (j) Three members representing government entities, with at least
26 one member representing counties;

27 (k) One member representing tribal or indigenous solid waste
28 services organizations;

29 (l) Two members representing other interested parties or
30 additional members of interests represented under (a) through (k) of
31 this subsection, as determined by the department, prioritizing
32 representation of diverse communities, including marginalized groups,
33 to ensure the activities carried out under this chapter reflect their
34 perspectives;

35 (m) One nonvoting member representing each registered producer
36 responsibility organization; and

37 (n) One nonvoting member representing the department.

38 (3) The department must appoint an equity subcommittee to the
39 advisory council comprised of six representatives from overburdened
40 communities or socially vulnerable populations, including

1 representatives from three geographic locations in eastern Washington
2 representing a small, medium, and large community. The equity
3 subcommittee is responsible for informing and making recommendations
4 to the advisory council, the department, and producer responsibility
5 organizations regarding the impacts of activities under this chapter
6 on socially vulnerable populations and overburdened communities,
7 including the accessibility of covered services for covered materials
8 to socially vulnerable populations and overburdened communities. At a
9 minimum, the equity subcommittee must review and, as appropriate,
10 provide information or make recommendations regarding needs
11 assessments, submitted plans, and submitted annual reports. The
12 department must appoint the members of the equity subcommittee based
13 on solicited input received from the commission on African American
14 affairs, the commission on Hispanic affairs, the commission on Asian
15 Pacific American affairs, the LGBTQ commission, and the women's
16 commission.

17 (4) In appointing members, the department:

18 (a) Is prohibited from appointing members who are state
19 legislators or registered lobbyists;

20 (b) Is prohibited from appointing members who are employees of
21 producers required to be members of a producer responsibility
22 organization under this chapter; and

23 (c) Must endeavor to appoint members from all regions of the
24 state.

25 (5)(a) The member appointed to represent the department serves at
26 the pleasure of the department. All other members serve for a term of
27 four years, except that the initial term for nine of the initial
28 appointees must be two years so that membership terms are staggered.
29 Members may be reappointed but may not serve more than eight
30 consecutive years.

31 (b) A member may be removed by the department at any time. The
32 chair of the advisory council must inform the department of a member
33 missing three consecutive meetings. After the second consecutive
34 missed meeting, the chair of the advisory council must notify the
35 member in writing that the member may be removed for missing the next
36 meeting. If there is a vacancy on the advisory council for any
37 reason, the department shall make an appointment to become effective
38 immediately for the unexpired term.

39 (6) Advisory councilmembers that are representatives of tribes,
40 tribal or indigenous services organizations, community-based

1 organizations, or environmental nonprofit organizations must, if
2 requested, be compensated and reimbursed in accordance with RCW
3 43.03.050, 43.03.060, and 43.03.220.

4 (7)(a) A majority of the voting members of the advisory council
5 constitutes a quorum. If there is a vacancy in the membership of the
6 advisory council, a majority of the remaining voting members of the
7 council constitutes a quorum.

8 (b) Action by the advisory council requires a quorum and a
9 majority of those present and voting. All members of the advisory
10 council, except the member appointed to represent the department and
11 the member appointed to represent the producer responsibility
12 organization, are voting members of the council.

13 (8)(a) The advisory council must meet at least two times per year
14 and may meet more frequently upon 10 days' written notice at the
15 request of the chair or a majority of its members.

16 (b) Meetings of the advisory council must comply with chapter
17 42.30 RCW, the open public meetings act.

18 (9) At its initial meeting, and every two years thereafter, the
19 advisory council must elect a chair and vice chair from among its
20 members.

21 (10) The department shall provide administrative and operating
22 support to the advisory council, including compensation in accordance
23 with subsection (6) of this section, and may contract with a third-
24 party facilitator to assist in administering the activities of the
25 advisory council, including establishing a website or landing page on
26 the department website.

27 (11) The department must assist the advisory council in
28 developing policies and procedures governing the disclosure of actual
29 or perceived conflicts of interest that advisory councilmembers may
30 have as a result of their employment or financial holdings with
31 respect to themselves or family members. Each advisory councilmember
32 is responsible for reviewing the conflict-of-interest policies and
33 procedures. An advisory councilmember must disclose any instance of
34 actual or perceived conflicts of interest at each meeting of the
35 advisory council at which recommendations regarding plans, programs,
36 operations, or activities are made by the advisory council.

37 NEW SECTION. **Sec. 106.** DEPARTMENT'S DUTIES. (1) The department
38 must implement, administer, and enforce this chapter and may adopt
39 rules as necessary for those purposes.

1 (2) The department must:

2 (a) By January 1, 2026, appoint the initial membership of the
3 advisory council, as required under section 105 of this act;

4 (b) Provide administrative and operating support to the advisory
5 council, as required under section 105 of this act;

6 (c) Consider and respond in writing to all written comments
7 received from the advisory council;

8 (d) By January 31, 2026, and annually thereafter, facilitate
9 registration by service providers, as required under section 107 of
10 this act;

11 (e) Beginning March 1, 2026, accept the registration of producer
12 responsibility organizations and, if necessary, select the producer
13 responsibility organization required by subsection (3) of this
14 section;

15 (f) By October 1, 2026, develop the initial statewide collection
16 lists required by section 109 of this act;

17 (g) By December 31, 2026, complete the preliminary needs
18 assessment required by section 111 of this act;

19 (h)(i) By July 1, 2026, determine the one-time registration fee
20 in subsection (4)(c) of this section; and

21 (ii) By March 31, 2026, determine the one-time payment and every
22 March 31st thereafter determine the annual registration fee in
23 subsection (4)(a) of this section;

24 (i) By December 31, 2027, and every five years thereafter,
25 complete the statewide needs assessment required by section 111 of
26 this act;

27 (j) By 2028, adopt rules to administer and implement this
28 chapter. The department shall seek to adopt rules that are harmonized
29 with other states;

30 (k) Beginning October 1, 2028, and periodically thereafter,
31 review and approve plans, as described in subsection (5) of this
32 section;

33 (l) By January 31, 2029, create a model comprehensive solid waste
34 plan amendment for use by cities and counties in lieu of updating,
35 amending, or revising a plan consistent with RCW
36 70A.205.045(7)(b)(i);

37 (m) Beginning March 1, 2029, initiate enforcement activities with
38 respect to noncompliant producers that are not members of the
39 producer responsibility organization, consistent with section 104(2)
40 and 123 of this act;

1 (n) Beginning July 1, 2031, and annually thereafter, review and
2 approve annual reports, as described in subsection (6) of this
3 section;

4 (o) By January 31, 2032, submit the equity study to the
5 legislature required in section 112 of this act;

6 (p) By September 1, 2038, submit the independent review of the
7 program report to the legislature as required in section 121 of this
8 act;

9 (q) Establish statewide requirements as required under section
10 115(10) of this act;

11 (r) Review and make determinations on proposals related to
12 alternative recycling processes, as described in section 115(5) of
13 this act;

14 (s) Review confidentiality requests submitted under section 122
15 of this act;

16 (t) Enforce the requirements of this chapter, as required by
17 section 123 of this act;

18 (u) Review petitions to exempt materials, as required by sections
19 109(5) and 126 of this act; and

20 (v) Establish a public website that includes:

21 (i) The most recent registration materials submitted by producer
22 responsibility organizations;

23 (ii) A list of registered service providers;

24 (iii) The most recent needs assessment;

25 (iv) Any plan or amendment submitted by a producer responsibility
26 organization that is in draft form during the public comment period;

27 (v) The most recent lists under section 109 of this act;

28 (vi) The list of exempt materials;

29 (vii) Links to producer responsibility organization websites;

30 (viii) Comments of the public, advisory council, and producer
31 responsibility organizations on the items listed in (v)(iii) through
32 (vi) of this subsection and, if any, the responses of the department
33 to those comments;

34 (ix) The names of producers and brands that the department or a
35 producer responsibility organization has identified as not being in
36 compliance with the requirements of this chapter; and

37 (x) Links to adopted rules implementing this chapter.

38 (3) By March 1, 2026, if registrations for more than one producer
39 responsibility organization, other than producers registering as
40 producer responsibility organizations, are submitted to the

1 department, the department must determine which proposed producer
2 responsibility organization can most effectively implement this
3 chapter until the first approved plan period ends. Until the
4 conclusion of the initial plan implementation period, producers of
5 covered materials that do not register as producer responsibility
6 organizations must join the producer responsibility organization
7 whose registration is approved by the department. This limitation
8 only applies for the purposes of program development and the initial
9 plan implementation period. For purposes of plan implementation after
10 the first plan approved by the department expires, the department may
11 allow registration of more than one producer responsibility
12 organization.

13 (4)(a) By March 31, 2027, and every March 31st thereafter, the
14 department must determine a total annual registration fee to be paid
15 by each producer responsibility organization that is adequate to
16 cover, but not exceed, the costs to implement, administer, and
17 enforce this chapter, including the costs determined by the
18 department of labor and industries to implement and enforce section
19 304 of this act, in the next fiscal year;

20 (b) By 2028, the department must adopt rules to equitably
21 determine annual registration fees by producer responsibility
22 organizations if the department has approved the registration of more
23 than one producer responsibility organization;

24 (i) Until rules are adopted under (b) of this subsection, issue a
25 general order to all registered producer responsibility
26 organizations; and

27 (ii) Send notice to each producer responsibility organization of
28 fee amounts due, consistent with either the general order issued
29 under (b)(i) of this subsection or rules adopted under (b) of this
30 subsection.

31 (c) The department must:

32 (i) In the March 31, 2027, producer responsibility organization
33 annual registration fee determination under (a) of this subsection,
34 adjust the fee to account for funds received that were due by
35 September 1, 2026, under section 104 of this act;

36 (ii) Apply any remaining annual fee payment funds from the most
37 recently closed fiscal year to the annual fee for the coming fiscal
38 year, if the collected annual fee exceeds the costs identified under
39 (b) of this subsection for the most recently closed fiscal year; and

1 (iii) Increase annual fees for the coming fiscal year to cover
2 the costs identified under (b) of this subsection, if the collected
3 annual fee was less than the amount required to cover those costs for
4 a given year.

5 (c) By March 1, 2026, the department must determine the one-time
6 payment to be paid by each producer responsibility organization that
7 is adequate to cover, but not exceed, the costs to implement,
8 administer, and enforce this chapter from the effective date of this
9 section until June 30, 2027.

10 (5) Within 120 days of receipt, the department must review and
11 approve, approve with conditions, deny, or request additional
12 information for a draft plan or draft amendment, including a
13 contingency plan as required in section 114 of this act, submitted by
14 a producer responsibility organization or coordinating body.

15 (a) The department must post the draft plan or plan amendment on
16 the department's website, notify the appropriate committees of the
17 legislature that a draft plan has been submitted and posted, and
18 allow public comment for no less than 45 days before approving,
19 denying, or requesting additional information on the draft plan or
20 amendment.

21 (b) (i) If the department denies or requests additional
22 information for a draft plan or amendment, the department must
23 provide the producer responsibility organization with the reasons, in
24 writing, that the plan or amendment does not meet the plan
25 requirements of section 113 of this act. The producer responsibility
26 organization has 60 days from the date that the rejection or request
27 for additional information is received to submit to the department
28 any additional information necessary for the department's approval.
29 The department must review and approve or disapprove the revised
30 draft plan or amendment no later than 60 days after the department
31 receives it. If the department disapproves the revised plan or
32 revised plan amendment, the department shall provide the reason, in
33 writing, and either: (A) Direct changes to the revised plan or plan
34 amendment; or (B) require the producer responsibility organization to
35 submit a second revision no later than 60 days from the date of the
36 rejection.

37 (ii) The department may approve the second revision submitted by
38 the producer responsibility organization with additional conditions
39 the producer responsibility organization must implement.

1 (c) The department's approval of the first producer
2 responsibility organization plans submitted by October 1, 2028, must
3 take effect no earlier than the adjournment of the 2029 regular
4 legislative session, in order to allow an opportunity for the 2029
5 legislature to determine whether to amend the requirements of this
6 chapter, to make other recycling policy changes including the
7 potential establishment of a bottle deposit return program, or to
8 allow that the proposed plan and program under this chapter be
9 implemented in full. Nothing in this subsection (5)(c) amends or
10 limits the duties or authorities of a producer, a producer
11 responsibility organization, or the department under this chapter,
12 including with respect to the timing of plan submission, plan review,
13 or plan revision processes specified in this section, while the 2029
14 legislature reviews the draft plan submitted to the department as
15 provided in this subsection. Nothing in this subsection prevents a
16 plan from being implemented in absence of legislative action after
17 the effective date of this section.

18 (d) Upon recommendation of the advisory council, or upon the
19 department's initiative, the department may require an amendment to
20 the plan if the department determines that an amendment is necessary
21 to ensure that the producer responsibility organization maintains
22 compliance with the requirements of this chapter.

23 (6) The department must review annual reports and:

24 (a) Make annual reports available for public review and comment
25 for at least 30 days;

26 (b) Review within 120 days of receipt of a complete annual
27 report;

28 (c) Determine whether an annual report meets the requirements of
29 this chapter, considering comments received under (a) of this
30 subsection, and notify the producer responsibility organization of
31 the approval or reasons for denial. The producer responsibility
32 organization must submit a revised annual report within 60 days after
33 receipt of a denial letter; and

34 (d) Notify a producer responsibility organization if the annual
35 report demonstrates that a plan fails to achieve the requirements
36 under this chapter.

37 (7) Upon request of the department for purposes of determining
38 compliance with this chapter, or for purposes of implementing this
39 chapter, a person must furnish to the department any information that
40 the person has or may reasonably obtain.

1 NEW SECTION. **Sec. 107.** SERVICE PROVIDER REGISTRATION. (1) By
2 January 31, 2026, and annually thereafter, each service provider that
3 intends to seek reimbursement for services provided under an approved
4 plan must register with the department by submitting the following
5 information:

6 (a) The contact information for a person representing the service
7 provider;

8 (b) The address of the service provider;

9 (c) Identification of service areas where covered services are to
10 be provided to covered entities;

11 (d) Identification of the covered services to be provided to
12 covered entities, by service area; and

13 (e) If applicable to services provided, a report of the number of
14 covered entities currently provided service, the number of covered
15 entities eligible to receive service, and the total amount billed for
16 collection for covered entities, processing services, transfer
17 station operations provided, and tons managed during the preceding
18 calendar year, by covered entity type and by service area. When
19 possible, values must be separated for collection, transfer, and
20 processing.

21 (2)(a) Material recovery facilities receiving covered materials
22 collected from covered entities must register as service providers as
23 described in subsection (1) of this section and must report annually
24 to the department by commodity type and covered material type, in a
25 form and format created by the department, on the following:

26 (i) Tons received and processed, by jurisdiction and service
27 provider;

28 (ii) Inbound material quality and contamination;

29 (iii) Outbound material quality and contamination;

30 (iv) Outbound material tons, destinations, and final use by
31 commodity type, including each destination company and location. If
32 exported outside of the United States, the destination country must
33 be listed. Beginning in 2031, material recovery facilities must
34 submit certification, for each destination to which commodities
35 containing covered materials were sent, that the destination is a
36 responsible market;

37 (v) Methods of managing contaminants and residue to avoid
38 negative impacts on other waste streams or facilities;

39 (vi) Residuals, including residue rate, composition, and disposal
40 location;

(vii) Any violations of existing permits, regarding emissions to air and water, and the status of those permit violations; and

(viii) Labor metrics including wages, unions, and workforce demographics.

(b) All data reported by material recovery facilities under this subsection must, at the request of the department, be audited by an independent third party.

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

NEW SECTION. **Sec. 108.** SERVICE PROVIDER RESPONSIBILITIES. A service provider receiving reimbursement or funding under an approved plan must:

(1) Provide covered services for covered materials included on the statewide collection lists, covered services for a refill system, or covered services for reusable covered materials, as applicable to the services offered by and service area of the service provider;

(2) Register annually with the department;

(3) Submit invoices to the producer responsibility organization for reimbursement for services rendered;

(4) Meet performance standards established in an approved plan;

(5) Ensure that covered materials are sent to responsible markets;

(6) Provide documentation to the producer responsibility organization of the amounts, covered material types, and volumes of covered materials by covered service method;

(7) Display the service provider's price, minus the reimbursement from the producer responsibility organization, when invoicing customers and, in delivering curbside collection services, pass on the applicable portion of the reimbursement, through solid waste rate reductions or credits, to all customers receiving curbside collection services eligible for reimbursement; and

(8) Comply with all other applicable requirements of this chapter.

1 NEW SECTION. **Sec. 109.** STATEWIDE COLLECTION LISTS. (1)(a) The
2 department must develop lists of covered materials determined to be
3 recyclable or compostable statewide. By October 1, 2026, the
4 department must develop initial lists for use and evaluation in the
5 needs assessment described in section 111 of this act. The department
6 must also publish lists no later than 30 days after approving a plan,
7 taking into account proposed changes in the plan. In the development
8 of the lists, the department must distinguish between:

9 (i) Materials determined to be suitable for residential recycling
10 collection, whether in a commingled or in a separate container;

11 (ii) Materials determined to be suitable for residential
12 composting collection;

13 (iii) Materials suitable for public place collection; and

14 (iv) Materials suitable for alternative collection.

15 (b) In determining whether a material is suitable for
16 residential, public place, or alternative collection, the department
17 may consider any combination of the following criteria:

18 (i) The stability, maturity, accessibility, and viability of
19 responsible markets;

20 (ii) Environmental health and safety considerations;

21 (iii) The anticipated yield loss for the material during the
22 recycling or composting process;

23 (iv) The material's compatibility with existing recycling
24 infrastructure;

25 (v) Whether the material adheres to published design guidelines
26 for recyclability or compostability;

27 (vi) The amount of the material available;

28 (vii) The practicalities of sorting and storing the material;

29 (viii) The potential to cause or be impacted by contamination;

30 (ix) The ability for waste generators to easily identify and
31 properly prepare the material;

32 (x) Economic factors;

33 (xi) Environmental factors from a life-cycle perspective;

34 (xii) The policy expressed in RCW 70A.205.010; or

35 (xiii) Other criteria or factors, as determined by the
36 department.

37 (2) A producer responsibility organization may propose a covered
38 material for addition to or removal from the lists under this section
39 as part of a plan or as a plan amendment. In considering the

1 proposal, the department may consider the same criteria as those
2 established under subsection (1)(b) of this section.

3 (3) In developing lists under this section, the department must
4 consult with the advisory council, producer responsibility
5 organizations, service providers, government entities, and other
6 interested parties. The department must consider any requests
7 received for the inclusion or removal of a covered material or
8 covered material type on a list under this section. The department
9 may select a third-party consultant to assist with the development of
10 the lists.

11 (4)(a) Except as described in (b) of this subsection and
12 subsection (5) of this section, a material that is not identified as
13 suitable for residential collection may not be collected as part of a
14 residential recycling program.

15 (b) A covered material that is not identified as suitable for
16 residential collection may be temporarily collected as part of a
17 residential recycling program and qualify for reimbursement if:

18 (i) The covered material is collected as part of a pilot program
19 agreed to by the service provider, the government entity under whose
20 authority the service is provided, and the producer responsibility
21 organization;

22 (ii) The pilot program is of limited duration; and

23 (iii) The pilot program is conducted in a limited area.

24 (5) For purposes of the first plan implementation period, a group
25 of producers representing a majority of a distinct covered material
26 type or distinct packaging type may petition the department, prior to
27 the department finalizing a list under this section, to consider
28 designating that material or packaging as suitable for multiple modes
29 of collection other than commingled residential, depending on
30 location. The department may grant a petition that is submitted at
31 least six months prior to the publication of the lists and that
32 justifies why different methods are appropriate in different
33 jurisdictions based on the factors specified in subsection (1)(b) of
34 this section.

35 NEW SECTION. **Sec. 110.** CONVENIENCE STANDARDS—ALTERNATIVE
36 COLLECTION. (1) Collection services for covered materials determined
37 to be suitable for residential recycling collection under section 109
38 of this act must be available wherever residential garbage collection

1 services are available, except in areas subject to a county ordinance
2 as specified in RCW 70A.205.045(7)(b)(i)(C).

3 (2) An alternative collection program or programs for each
4 covered material included on the alternative collection list must be
5 provided under a plan. For purposes of the first plan implementation
6 period, an alternative collection program may be proposed by a
7 producer responsibility organization, a group of producers with a
8 petition granted by the department under section 109(5) of this act,
9 or a majority of producers of a unique product type whose packaging
10 is designated for alternative collection. A proposal under this
11 subsection must be submitted at the same time as the plan, and is
12 subject to the same approval process as the plan. An alternative
13 collection program must:

14 (a) Provide year-round, convenient, statewide collection
15 opportunities, including at least one drop-off collection site
16 located in each county;

17 (b) Provide tiers of service for collection, convenience, number
18 of drop-off collection sites, and additional collection systems based
19 on:

20 (i) County population size;

21 (ii) County population density; and

22 (iii) Each class of city or town under chapter 35.01 RCW;

23 (c) Ensure materials are sent to responsible markets;

24 (d) Use education and outreach strategies that can be expected to
25 significantly increase consumer awareness of the program throughout
26 the state; and

27 (e) Accurately measure the amount of each covered material
28 collected and the applicable performance target and statewide
29 requirement.

30 (3) A plan for an alternative collection program must include:

31 (a) The number, type, and location of each collection
32 opportunity;

33 (b) A description of how each of the program requirements in (a)
34 of this subsection will be met; and

35 (c) Performance targets for each covered material, as applicable,
36 to be managed through an alternative collection program.

37 (4) Every subsequent needs assessment after the first needs
38 assessment must include a review of alternative collection programs
39 for each covered material on the statewide alternative collection

list to determine if the program is meeting the criteria established in subsection (2) of this section.

(5) A retail establishment may choose to serve as a drop-off location or collection event as part of an alternative collection program, through mutual agreement with a producer responsibility organization or group of producers implementing an alternative collection program.

(6) Any group of producers, other than the producer responsibility organization registered with the department, that manages an approved alternative collection plan during the first plan implementation period must:

(a) Be exclusively responsible for management of the distinct material, packaging, or product type covered by that plan and may thereby wholly or partially offset the producers' payment obligations under this chapter with respect to the distinct material, packaging, or product type only; and

(b) Comply with all requirements applicable to a producer responsibility organization under this chapter, other than requirements determined by the department not to be relevant to the group of producers as a result of the producers' need to only manage a distinct material, packaging, or product type rather than multiple types of materials, packaging, or product types.

NEW SECTION. **Sec. 111.** STATEWIDE NEEDS ASSESSMENTS. (1)(a) By December 31, 2026, the department must complete a preliminary assessment consistent with subsection (3) of this section.

(b) By December 31, 2027, and every five years thereafter, the department must complete a needs assessment consistent with subsection (4) of this section. The department may adjust the required content in a specific needs assessment to inform the next plan.

(2) In conducting a needs assessment, the department must:

(a) Initiate a consultation process to obtain recommendations from the advisory council, government entities, service providers, producer responsibility organizations, the utilities and transportation commission, and other interested parties, regarding the type and scope of information that should be collected and analyzed in the needs assessments required by this section;

1 (b) Contract with a third party who is not a producer, a producer
2 responsibility organization, or a member of the advisory council to
3 conduct the needs assessment;

4 (c) At least 90 days prior to finalizing the needs assessment,
5 make the draft needs assessment available for comment by the advisory
6 council, producer responsibility organizations, the utilities and
7 transportation commission, jurisdictions planning under chapter
8 70A.205 RCW, and the public. The advisory council must have the
9 opportunity to review drafts of the needs assessment and accompanying
10 data used in the needs assessment. The department must respond in
11 writing to the comments and recommendations of the advisory council
12 and producer responsibility organizations; and

13 (d)(i) Consider information from studies related to recycling
14 conducted by the department after 2019; and

15 (ii) Use the department's statewide collection lists for covered
16 materials as established under section 109 of this act.

17 (3) A preliminary needs assessment must be completed for a
18 preceding period of no less than 12 months and no more than 36 months
19 that includes:

20 (a) Identification of currently or recently introduced covered
21 materials and covered material types;

22 (b) Tons of collected covered materials;

23 (c) An evaluation of what services related to the requirements of
24 this chapter are currently being delivered in each county and city
25 planning under chapter 70A.205 RCW and what the costs are for those
26 existing services, including:

27 (i) The availability and types of recycling services for covered
28 materials for residents in single-family and multifamily residences,
29 including whether current services are considered residential or
30 commercial and whether any gaps, costs, or needs are specific to
31 either commercial or residential customer service;

32 (ii) The current methods and infrastructure for servicing
33 residents, including curbside recycling service areas and material
34 drop-off locations;

35 (iii) Any densely populated areas within each jurisdiction in
36 which curbside recycling services for covered materials identified by
37 the department on the list developed and published under section 109
38 of this act are not available or are only partially available;

39 (iv) Any areas within each jurisdiction where curbside garbage
40 collection services are offered to residents in single-family and

1 multifamily residences but curbside recycling services are not
2 offered;

3 (d) Processing capacity at material recovery facilities,
4 including total tons processed and sold, composition of tons
5 processed and sold, current technologies utilized, and facility
6 processing fees charged to collectors delivering covered materials
7 for recycling;

8 (e) Capacity of compost facilities, including total tons
9 processed and sold, technology used by, and characteristics of
10 compost facilities to process and recover compostable covered
11 materials, and facility processing fees charged to collectors
12 delivering covered materials for composting;

13 (f) Capacity and number of drop-off collection sites, and the
14 materials collected at those drop-off collection sites;

15 (g) Capacity and number of transfer stations and transfer
16 locations;

17 (h) Average term length and variability of residential recycling
18 and composting collection contracts issued by government entities and
19 an assessment of contract cost structures;

20 (i) An estimate of the total annual collection and processing
21 service costs based on registered service provider costs;

22 (j) Available markets in Washington for covered materials and the
23 capacity of those markets; and

24 (k) Covered materials introduced by volume, weight, and covered
25 material types introduced by producers.

26 (4) Each needs assessment after the preliminary needs assessment
27 must include at least the following:

28 (a) An evaluation of:

29 (i) Existing waste reduction, refill, reuse, recycling, and
30 composting outcomes, as applicable, for each covered material type,
31 including collection rates, recycling rates, composting rates, reuse
32 rates, and return rates, as applicable, for each covered material
33 type;

34 (ii) The overall recycling rate, composting rate, reuse rate, and
35 return rate for all covered material types; and

36 (iii) The extent to which postconsumer recycled content, by the
37 best estimate, is or could be incorporated into each covered
38 materials type, as applicable, including a review of North American
39 sources and markets and technical barriers to incorporating
40 postconsumer materials into covered materials. For plastic covered

1 materials, postconsumer recycled content must be measured by rigid
2 plastic resin type and by film or flexible plastic;

3 (b) An evaluation of covered materials in the disposal,
4 recycling, and composting streams to determine the covered materials
5 types and amounts within each stream, using new studies conducted by
6 the department or publicly available and applicable studies;

7 (c) Proposals for a range of outcomes for each covered materials
8 type to be accomplished within a five-year time frame in multiple
9 units of measurement including, but not limited to, unit-based,
10 weight-based, and volume-based, for each of the following:

11 (i) Plastic source reduction rates;

12 (ii) Reuse rates and return rates;

13 (iii) Recycling rates;

14 (iv) Composting rates; and

15 (v) Postconsumer recycled content, if applicable;

16 (d) Proposals for a range of outcomes for the categories
17 established in section 115(10) of this act that consider:

18 (i) Information contained in or used to prepare a needs
19 assessment under this section;

20 (ii) Goals and requirements of chapters 70A.205 and 70A.245 RCW;

21 (iii) The statewide greenhouse gas emissions limits of chapter
22 70A.45 RCW;

23 (iv) The need for continuous progress toward:

24 (A) Overall reduction in the generation of covered material
25 waste;

26 (B) The reuse, recycling, or composting of covered materials to
27 reduce environmental impacts and human health impacts; and

28 (C) Progress to incorporate postconsumer content to replace
29 virgin materials and to support more regional markets;

30 (v) A preference for statewide requirements that accomplish and
31 further the goals and requirements in (d)(ii), (iii), and (iv) of
32 this subsection as soon as practicable and to the maximum extent
33 achievable; and

34 (vi) Information from paper and packaging producer responsibility
35 programs operating in other jurisdictions;

36 (e) An evaluation of the criteria used for developing the lists
37 of covered materials determined to be recyclable or compostable
38 statewide as established in section 109 of this act;

39 (f) Recommended collection methods by covered materials type to
40 maximize collection efficiency, maximize feedstock quality, and

1 optimize service and convenience for collection of covered materials
2 to be considered or that are included on lists established in section
3 109 of this act, or for which a group of producers has been granted a
4 petition by the department under section 109(5) of this act;

5 (g) Proposed plans and metrics for how to measure progress in
6 achieving performance targets and statewide requirements;

7 (h) An evaluation of options for third-party certification of
8 activities to meet obligations of this chapter;

9 (i) An inventory of the current system, including:

10 (i) Infrastructure, capacity, performance, funding level, and
11 method and source of financing for the existing covered services for
12 covered materials operating in the state;

13 (ii) An estimate of total annual costs of covered services based
14 on registered service provider costs; and

15 (iii) Availability and cost of covered services for covered
16 materials to covered entities and any other location where covered
17 materials are introduced, including identification of disparities in
18 the availability of these services in overburdened communities
19 compared with other areas and to socially vulnerable populations as
20 compared to other populations and proposals for reducing or
21 eliminating those disparities;

22 (j) An evaluation of investments needed to increase waste
23 reduction, refill, reuse, recycling, and composting rates of covered
24 materials according to the range of proposed performance targets and
25 statewide requirements, including what new or expanded services and
26 infrastructure are needed in each county and city planning under
27 chapter 70A.205 RCW, and the estimated total costs of investments
28 needed, that would also:

29 (i) Maintain or improve operations of existing infrastructure and
30 account for waste reduction, refill, reuse, recycling, and composting
31 of covered materials statewide;

32 (ii) Expand the availability and accessibility of recycling
33 collection services for covered materials to all places required
34 under this chapter and expand the availability and accessibility of
35 composting collection services where feasible; and

36 (iii) Establish and expand the availability and accessibility of
37 reuse services for reusable covered materials;

38 (k) A recommended methodology for applying criteria and formulas
39 to establish reimbursement rates as described in section 117 of this
40 act;

1 (l) An assessment of the viability and robustness of markets for
2 recyclable and compostable covered materials and the degree to which
3 these markets can be considered responsible markets;

4 (m) An assessment of the level and causes of contamination of
5 source separated recyclable materials, source separated compostable
6 materials, and collected reusables, and the impacts of contamination
7 on service providers and on commodity values of covered material
8 types, including the cost to manage this contamination;

9 (n) An assessment of toxic substances intentionally added to or
10 residual from manufacturing in covered materials, whether this limits
11 one or more covered material types from being used as a marketable
12 feedstock, and best practices producers can implement to reduce
13 intentionally added or residual toxic substances in covered materials
14 that could be verified through suppliers' certificates of compliance,
15 testing, or other analytical and scientifically demonstrated
16 technology;

17 (o) An assessment and evaluation of current best practices and
18 efforts on:

19 (i) Public awareness, education, and outreach activities
20 accounting for culturally responsive materials and methods and an
21 evaluation of the efficacy of those efforts;

22 (ii) Using product or packaging labels as a means of informing
23 consumers about environmentally sound use and management of covered
24 materials;

25 (iii) Increasing public awareness of how to use and manage
26 covered materials in an environmentally sound manner and how to
27 access waste reduction, refill, reuse, recycling, and composting
28 services; and

29 (iv) Encouraging behavior change to increase participation in
30 waste reduction, refill, reuse, recycling, and composting programs;

31 (p) Identification of the covered materials with the most
32 significant environmental impacts, including assessing each covered
33 material's generation of hazardous waste, generation of greenhouse
34 gases, environmental justice impacts, public health impacts, and
35 other impacts;

36 (q) Recommendations for meeting the criteria for an alternative
37 collection program; and

38 (r) Other items identified by the department that would aid the
39 creation of the plan, the implementation of the plan, and the
40 enforcement of this chapter.

1 (5) The department or its contracted third party may conduct
2 voluntary interviews with service providers of curbside recycling or
3 composting services or recycling or composting processing services
4 within a jurisdiction on costs for additional infrastructure,
5 vehicles, staff, equipment, and other investments to achieve the
6 range of outcomes proposed under subsection (4)(c) and (d) of this
7 section.

8 (6) When determining the extent to which any statewide
9 requirement or performance target under this chapter has been
10 achieved, information contained in a needs assessment must serve as
11 the baseline for that determination, when applicable.

12 (7)(a) A service provider or other person with data or
13 information necessary to complete a needs assessment must provide the
14 data or information to the department upon request.

15 (b) A service provider or other person providing the data or
16 information may submit a request to the department consistent with
17 section 122 of this act that the data or information be considered
18 confidential and not made public.

19 (c) The contractor conducting the needs assessment must aggregate
20 and anonymize the nonpublic data or information, excluding location
21 data as necessary to assess needs, received from all parties under
22 this section and must then include the aggregated anonymized data in
23 the needs assessment.

24 NEW SECTION. **Sec. 112.** EQUITY STUDY. (1) By January 31, 2032,
25 the department must complete a study, conducted by a contracted third
26 party that is not a producer or producer responsibility organization,
27 of facilities operating in the state that manage covered materials
28 and at facilities operating in the state that receive covered
29 materials as recycled feedstock. The study must analyze, at a
30 minimum, information about:

31 (a) Working conditions, wage and benefit levels, workforce
32 development effects, and employment levels of minorities and women at
33 those facilities;

34 (b) Barriers to ownership of recycling, composting, and reuse
35 operations faced by women and minorities;

36 (c) The degree to which residents of multifamily buildings have
37 less convenient access to recycling, composting, and reuse
38 opportunities than those living in single-family homes;

1 (d) The degree to which individuals living in overburdened
2 communities have access to fewer recycling, composting, and reuse
3 opportunities compared to other parts of the state;

4 (e) The degree to which programs to increase access, convenience,
5 and education are successful in raising reuse, recycling, and
6 composting rates in areas where participation in these activities is
7 low. This must include an evaluation of the efficacy of activities
8 under section 119 of this act that are conceptually, linguistically,
9 and culturally tailored to effectively reach diverse residents, and
10 which such activities could be adjusted or improved to achieve
11 improved outcomes for specific areas or sectors where participation
12 is low;

13 (f) Strategies to increase participation in reuse, recycling, and
14 composting; and

15 (g) The degree to which residents and workers in overburdened
16 communities are impacted by emissions, toxic substances, and other
17 pollutants from solid waste facilities in comparison to other areas
18 of the state and recommendations to mitigate those impacts.

19 (2) Producer responsibility organizations registered under this
20 chapter must cover the cost of conducting the study through the fees
21 charged by the department to the producer responsibility
22 organizations, and recommended actions identified in the study must
23 be considered for inclusion as part of future plans required under
24 this chapter, including adjustments to service provider
25 reimbursements under section 117 of this act.

26 NEW SECTION. Sec. 113. PLAN. (1) By October 1, 2028, and every
27 five years thereafter, each registered producer responsibility
28 organization must submit a plan to the department that describes the
29 proposed operation by the organization of programs to fulfill the
30 requirements of this chapter and that incorporates the findings and
31 results of needs assessments.

32 (2) A producer responsibility organization must submit a draft
33 plan or draft amendment to the advisory council at least 60 days
34 prior to submitting to the department to allow the advisory council
35 to submit comments and must address advisory council comments and
36 recommendations prior to the submission of the draft plan or draft
37 plan amendment to the department.

38 (3) A draft plan must include at a minimum:

1 (a) Performance targets established under section 115 of this act
2 as applicable to each covered materials type to be accomplished
3 within a five-year period;

4 (b) Any proposals for additions or removals of covered materials
5 to the lists established under section 109 of this act;

6 (c) A description of the methods of collection, how collection
7 service convenience metrics in section 110 of this act will be met,
8 and a description of processing infrastructure and covered services
9 to be used for each covered materials type for persons and locations
10 receiving services, at a minimum, and how these will meet the
11 performance targets established in section 115 of this act for
12 covered materials that are:

13 (i) Included or proposed to be included on lists established in
14 section 109 of this act;

15 (ii) Reusable covered materials managed through a reuse system;
16 and

17 (iii) Capable of refill and managed through a refill system;

18 (d) A description of how, for each covered materials type, the
19 producer responsibility organization will measure recycling, plastic
20 source reduction, reuse, composting, and the inclusion of
21 postconsumer recycled content, in accordance with the methodology
22 established in section 115 of this act;

23 (e) Third-party certifications as required by the department or
24 voluntarily undertaken;

25 (f) A budget identifying funding needs for each of the plan's
26 five calendar years, producer fees, a description of the process used
27 to calculate the fees, and an explanation of how the fees meet the
28 requirements of section 116 of this act;

29 (g) A description of infrastructure investments, including:

30 (i) Goals and outcomes and a description of how the process to
31 offer and select investments will be conducted in an open,
32 competitive, and fair manner;

33 (ii) How the infrastructure investments will address gaps in the
34 system not met by service providers; and

35 (iii) Potential financial and legal instruments to be used;

36 (h) An explanation of how the plan will be paid for by the
37 producer responsibility organization solely through fees from
38 producers. This restriction does not apply to refundable deposits
39 made in connection with a product's refill, reuse, or recycling that
40 can be redeemed by a consumer;

1 (i) A description of activities to be undertaken by the producer
2 responsibility organization during each year to:

3 (i) Minimize the environmental impacts and human health impacts
4 of covered materials, including assessing each covered material
5 type's generation of hazardous waste, generation of greenhouse gases,
6 environmental justice impacts, public health impacts, and other
7 impacts;

8 (ii) Foster the improved design of covered materials, as
9 identified under section 116(2)(c) of this act;

10 (iii) Provide funding to expand and increase the convenience of
11 waste reduction, refill, reuse, collection, recycling, and composting
12 services to covered entities, at a minimum, according to the order of
13 the state's solid waste management hierarchy established in RCW
14 70A.205.005;

15 (iv) Provide for reimbursement rates to service providers for
16 statewide coverage of covered services on the lists established in
17 section 109 of this act; and

18 (v) Monitor to ensure that postconsumer materials are delivered
19 to responsible markets;

20 (j) A description of how the producer responsibility organization
21 will promote the opportunity for all service providers to register
22 with the department and to submit invoices for reimbursement with the
23 producer responsibility organization;

24 (k) A description of how the program will reimburse service
25 providers under an approved plan including, but not limited to, a
26 description of how the program will establish:

27 (i) A methodology to calculate differentiated reimbursement rates
28 as provided in sections 116 and 117 of this act;

29 (ii) A process for service providers to submit invoices and be
30 reimbursed for covered services provided to covered entities;

31 (iii) Clear and reasonable timelines for reimbursement, at
32 intervals no longer than monthly unless agreed to by a service
33 provider and a producer responsibility organization; and

34 (iv) A process that utilizes a third-party mediator to resolve
35 disputes that arise between the producer responsibility organization
36 and a service provider regarding the determination of reimbursement
37 rates and payment of reimbursements;

38 (l) Performance standards for service providers as applicable to
39 the service provided including, but not limited to:

1 (i) Requirements that service providers must accept all covered
2 materials on the applicable list established by the department under
3 section 109(1)(a) of this act;

4 (ii) Requirements that service providers must offer residential
5 recycling collection for materials on the applicable list established
6 by the department under section 109(1)(a) of this act to covered
7 entities wherever they offer residential garbage collection services,
8 except in areas subject to a county ordinance as specified in RCW
9 70A.205.045(7)(b)(i)(C);

10 (iii) Requirements that service must be provided in a manner
11 consistent with the requirements of: (A) Chapter 70A.205 RCW for
12 curbside collection services of source separated recyclable materials
13 from residences; and (B) chapter 81.77 RCW;

14 (iv) Requirements that service providers must manage covered
15 materials in a manner consistent with the state's solid waste
16 management hierarchy established in RCW 70A.205.005; and

17 (v) Requirements that service providers comply with all
18 applicable federal, state, and local laws governing health and
19 safety;

20 (m) A requirement that owners or operators of a material recovery
21 facility that manages over 25,000 tons annually of covered materials
22 under this chapter must comply with the compensation requirements
23 specified in section 304 of this act;

24 (n) A description of how the producer responsibility organization
25 will treat and protect nonpublic data submitted by service providers;

26 (o) A description of how the producer responsibility organization
27 will provide technical assistance to:

28 (i) Service providers in order to assist them in delivering
29 covered materials to responsible markets;

30 (ii)(A) Producers regarding intentionally added toxic substances
31 and residual toxic substances from manufacturing in covered
32 materials; (B) best practices identified in the needs assessment that
33 producers can take to reduce intentionally added or residual toxic
34 substances in covered materials; and (C) best practices for verifying
35 reduction through suppliers' certificates of compliance, testing, or
36 other analytical and scientifically demonstrated methodology; and

37 (iii) Producers to make changes in product design that reduce the
38 environmental impact of covered materials or that increase the
39 recoverability or marketability of covered materials for reuse,
40 recycling, or composting;

1 (p) A description of how the producer responsibility organization
2 will increase public awareness, educate, and complete outreach
3 activities that meet the requirements of section 119 of this act and
4 will evaluate the efficacy of these efforts;

5 (q) A description of how the producer responsibility organization
6 will reduce or eliminate disparities in the availability to socially
7 vulnerable populations of covered services for covered materials;

8 (r) Proposed alternative collection programs as required under
9 section 110 of this act;

10 (s) A description of how producers can purchase postconsumer
11 materials from service providers at market prices if the producer is
12 interested in obtaining recycled feedstock to achieve minimum
13 postconsumer recycled content performance targets and statewide
14 requirements;

15 (t) A summary of consultations held with the advisory council and
16 other interested parties to provide input to the plan, a list of
17 recommendations that were incorporated into the plan as a result, and
18 a list of rejected recommendations and the reasons for rejection;

19 (u) Strategies to incorporate findings from any relevant studies
20 required by the legislature; and

21 (v) Any other information required by the department by rule.

22 (4) Consistent with the process established in section 106(5) of
23 this act, the department may only approve a draft plan submitted by a
24 producer responsibility organization that meets the requirements of
25 this section. The department shall not approve a draft plan that does
26 not satisfy each criteria required of a plan under this section,
27 including, but not limited to, a plan that does not reduce or
28 eliminate disparities in the availability to socially vulnerable
29 populations of covered services for covered materials.

30 NEW SECTION. **Sec. 114.** CONTINGENCY PLAN. (1) A producer
31 responsibility organization must submit to the department a
32 contingency plan demonstrating how the activities in the plan will
33 continue to be carried out by some other entity, such as an escrow
34 company, if needed:

35 (a) Until such time as a new or updated plan is submitted and
36 approved by the department;

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

38 (c) If the producer responsibility organization notifies the
39 department that it will cease to implement an approved plan; or

1 (d) In any other event that the producer responsibility
2 organization can no longer carry out plan implementation.

3 (2) The contingency plan must be submitted to the department as a
4 component of the producer responsibility organization's initial plan.
5 The department may require a producer responsibility organization to
6 revise the contingency plan coincident with any plan submittal.

7 (3) The requirements of this section do not require a producer
8 responsibility organization to hold funds in a dedicated account
9 until such time as the contingency plan must be implemented.

10 (4) The department must follow the same process and timelines for
11 reviewing and approving the contingency plan as it follows for the
12 plan.

13 NEW SECTION. **Sec. 115.** PERFORMANCE TARGETS. (1) Each producer
14 responsibility organization must propose performance targets based on
15 the needs assessment that meet the statewide requirements in
16 subsection (10) of this section that must be included in an approved
17 plan. Performance targets must include reuse rates, return rates,
18 recycling rates for materials delivered to responsible markets,
19 composting rates, and targets for plastic source reduction and
20 postconsumer recycled content by covered materials type, as
21 applicable. For products for which postconsumer recycled content
22 rates are established in RCW 70A.245.010 through 70A.245.050 and
23 70A.245.090 (1), (2), and (4), those rates must be included in an
24 approved plan. The producer responsibility organization must propose
25 the unit or units that are most appropriate to measure each
26 performance target as informed by the needs assessment.

27 (2) The department may require that a producer responsibility
28 organization obtain third-party certification of any activity or
29 achievement of any performance target required by this chapter if a
30 third-party certification is readily available, deemed applicable,
31 and of reasonable cost. The department must provide the producer
32 responsibility organization with notice of at least one year prior to
33 requiring use of third-party certification under this subsection.

34 (3) Proposed targets must demonstrate continuous improvement in
35 reducing environmental impacts and human health impacts of covered
36 materials over time.

37 (4) For purposes of determining whether recycling performance
38 targets are being met, except as modified by the department, a plan
39 must provide a methodology for measuring the amount of covered

1 material sent for recycling at the point at which material leaves a
2 material recovery facility or other processing facility and must
3 account for:

4 (a) Levels and types of estimated contamination documented by the
5 facility;

6 (b) Any exclusions for fuel or energy capture; and

7 (c) Compliance with all state laws pertaining to toxic substances
8 in covered materials.

9 (5)(a) The department must, in consultation with representatives
10 from overburdened communities, the advisory council, service
11 providers, municipalities, state agencies, alternative recycling
12 technology providers, and others, approve or deny a proposal by a
13 producer responsibility organization to count towards recycling
14 performance targets the materials sent to facilities that use an
15 alternative recycling process for conversion of plastic covered
16 materials for the purpose of producing recycled material.

17 (b) The department must establish a process by which a producer
18 responsibility organization may annually propose to count towards
19 recycling performance targets the materials sent to a facility that
20 uses an alternative recycling process.

21 (c) The department may only approve the producer responsibility
22 organization's proposal to count towards recycling performance
23 targets the materials sent to a facility that uses an alternative
24 recycling process if the department determines that the alternative
25 recycling process:

26 (i) Does not include combustion, fuel production, and other forms
27 of energy recovery of plastic covered materials in processing or
28 disposal;

29 (ii) Provides protection for the environment and human health
30 with consideration of inputs and outputs, including as measured
31 against all of the following criteria:

32 (A) Environmental release of air and water pollutants or any
33 hazardous pollutants;

34 (B) Generation of hazardous waste;

35 (C) Energy use and generation of greenhouse gases;

36 (D) Environmental impacts on overburdened communities and
37 socially vulnerable populations;

38 (E) Water usage including, but not limited to, impacts to local
39 water resources and sewage infrastructure;

40 (F) Public health impacts; and

1 (G) Capture and recycling rates;

2 (iii) Reduces gaps in collection, recycling, and composting
3 services at covered entities;

4 (iv) Meets an unmet need in the state that will result in meeting
5 recycling performance targets, including creating new recycling
6 markets for materials currently disposed of in landfills or
7 incinerated;

8 (v) Provides third-party certification of recycled content; and

9 (vi) Addresses those other environmental impacts as determined by
10 the department.

11 (d)(i) In making its determination under (c) of this subsection,
12 the department must take into consideration any local, state, or
13 federal environmental permitting requirements that govern the
14 operation of an alternative recycling process that reduces air and
15 water pollutants or the generation of hazardous waste or pollutants.
16 The department must also take into consideration whether the
17 alternative process produces food-grade or pharmaceutical-grade
18 recycled content.

19 (ii) The department must publish a determination on the producer
20 responsibility organization's proposal, detailing why it was approved
21 or denied and how it measured against the criteria listed in (c) of
22 this subsection. The department must also conduct a public review
23 process for at least 60 days.

24 (e) A person may appeal a decision by the department under (d) of
25 this subsection to the pollution control hearings board.

26 (f) The department must, no more frequently than every five
27 years, require the producer responsibility organization to provide
28 any updated information deemed necessary that demonstrates that an
29 approved alternative recycling process is continuing to meet the
30 requirements of this section. If the facility fails to meet the
31 requirements of this section, the department shall prohibit the
32 producer responsibility organization from counting material sent to
33 the alternative recycling facility towards recycling performance
34 targets.

35 (g) Nothing in this chapter prohibits or affects the use of any
36 alternative recycling process for products or packaging that are not
37 covered materials under this chapter.

38 (6) For purposes of determining whether plastic source reduction
39 performance targets are being met, a plan must provide a methodology
40 for measuring the amount of plastic source reduction of covered

1 materials in a manner that can be used to determine the extent to
2 which the amount of material used for a covered material can be
3 reduced to what is necessary to efficiently deliver a product without
4 damage or spoilage, or other means of covered material redesign to
5 reduce overall use and environmental impacts and maintain
6 recyclability, compostability, or reusability. No more than eight
7 percent of a producer responsibility organization's plastic source
8 reduction performance target may be met by switching from virgin
9 covered material to postconsumer recycled content through a sliding
10 scale alternative compliance formula developed by the department
11 based on the ratio of virgin plastic to postconsumer recycled
12 plastic. For producers subject to the postconsumer recycled content
13 requirements of chapter 70A.245 RCW, the postconsumer recycled
14 content used to comply with those requirements may be credited
15 towards the plastic source reduction performance target, subject to
16 the eight percent limit.

17 (7) For purposes of determining whether reuse performance targets
18 are being met, a plan must provide a methodology for measuring the
19 amount of reusable covered materials at the point at which reusable
20 covered materials meet the following criteria as demonstrated by the
21 producer and approved by the department whether the:

22 (a) Average minimum number of cycles of reuses within a
23 recognized reuse system has been met based on the number of times an
24 item must be reused for it to have lower environmental impacts than
25 the single-use versions of those items based on accepted industry
26 standards; and

27 (b) Demonstrated or research-based anticipated return rate of the
28 covered material to the reuse system has been met.

29 (8) For purposes of determining whether postconsumer recycled
30 content performance targets are being met under this chapter, a plan
31 must provide a methodology for measuring postconsumer recycled
32 content across all producers for a covered materials type where
33 producers may determine their postconsumer recycled content based on
34 their United States market territory if state-specific postconsumer
35 recycled content is impractical to determine.

36 (9) For other performance targets, the producer responsibility
37 organization must propose methodologies for review and approval as
38 part of the plan based on findings from the needs assessment.

1 (10)(a) The department must establish statewide requirements and
2 a date by which those requirements must be met for each of the
3 following categories:

4 (i) Recycling rate;

5 (ii) Composting rate;

6 (iii) Reuse rate;

7 (iv) Return rate;

8 (v) The percentage of covered materials introduced that must be
9 plastic source reduced; and

10 (vi) The percentage of postconsumer recycled content that covered
11 materials must contain, including an overall percentage for all
12 covered materials, as applicable, excluding compostable materials
13 that cannot include postconsumer recycled content due to unique
14 chemical or physical properties or health or safety requirements that
15 prohibit introduction of postconsumer recycled content.

16 (b) The department may use the following information and criteria
17 when establishing statewide requirements under (a) of this
18 subsection:

19 (i) The needs assessment;

20 (ii) The goals and requirements of chapter 70A.205 RCW;

21 (iii) The greenhouse gas emissions limits of chapter 70A.45 RCW;

22 (iv) The need for continuous progress towards overall reduction
23 in the generation of covered materials waste, the reuse, recycling,
24 or composting of covered materials to reduce environmental impacts
25 and human health impacts, and progress to incorporate postconsumer
26 recycled content to replace virgin materials and support more
27 regional markets;

28 (v) A preference for statewide requirements that accomplish and
29 further the goals and requirements in (b)(ii) through (iv) of this
30 subsection as soon as practicable and to the maximum extent
31 achievable; and

32 (vi) Information from packaging and paper product producer
33 responsibility programs operating in other jurisdictions.

34 (c) The department must consult with producer responsibility
35 organizations on establishing statewide requirements, submit proposed
36 statewide requirements for review by the advisory council, and
37 consider the advisory council's recommendations before finalizing the
38 statewide requirements.

39 (d) Every five years, the department must review the statewide
40 requirements established under this subsection. If the department

1 decides an update is not warranted at that time, the department must
2 submit the reasoning to the advisory council and consider the
3 advisory council's recommendations before making a final decision. If
4 the department decides an update is warranted, the department must
5 follow the process specified in (b) and (c) of this subsection.

6 (e) Producer responsibility organizations must ensure the
7 statewide requirements are met.

8 NEW SECTION. Sec. 116. PRODUCER FEES. (1) A registered producer
9 responsibility organization may charge each member producer a fee
10 according to each producer's unit-based, weight-based, volume-based,
11 or sales-based market share or by another method it determines to be
12 an equitable determination of each producer's payment obligation, so
13 that the aggregate fees charged to member producers are sufficient to
14 pay the producer responsibility organization's costs in full until
15 the producer responsibility organization has an approved plan.

16 (2) A producer responsibility organization with an approved plan
17 must annually collect a fee from each member producer that must:

18 (a) Vary based on the total amount of covered materials each
19 producer introduces in the prior year calculated on a per unit basis,
20 such as per ton, per item, or another unit of measurement;

21 (b) Reflect program costs for each covered materials type, net of
22 commodity value for that covered materials type when used as a
23 recycled material, as well as allocated fixed costs that do not vary
24 based on covered materials type. Any membership fees charged for
25 different covered material types, materials, and formats must:

26 (i) For covered materials that are on the statewide lists
27 established under section 109 of this act, be proportional to the
28 costs to the producer responsibility organization for that covered
29 material type, covered material, or format; and

30 (ii) Discourage the use of covered materials that are not on the
31 statewide lists established under section 109 of this act;

32 (c) Incentivize using materials and design attributes that reduce
33 the environmental impacts and human health impacts of covered
34 materials by:

35 (i) Eliminating intentionally added toxic substances or residual
36 toxic substances from manufacturing in covered materials;

37 (ii) Reducing the amount of:

1 (A) Packaging per individual covered material that is necessary
2 to efficiently deliver a product without damage or spoilage and
3 without reducing its ability to be recycled or composted; and

4 (B) Paper used to manufacture individual paper products;

5 (iii) Increasing the amount of covered materials managed in a
6 reuse system;

7 (iv) Increasing the proportion of postconsumer material in
8 covered materials;

9 (v) Enhancing the recyclability or compostability of a covered
10 material;

11 (vi) Increasing the amounts of inputs derived from renewable and
12 sustainable sources without reducing its ability to be recycled; and

13 (vii) Other means, as approved by the department;

14 (d) Discourage using materials and design attributes in covered
15 materials whose environmental impacts and human health impacts can be
16 reduced by the methods listed in (c) of this subsection;

17 (e) Prioritize reuse by charging covered materials that are
18 managed through a reuse system only once, upon initial entry into the
19 marketplace; and

20 (f) Generate revenue sufficient to pay in full:

21 (i) The fee to the department required under section 106 of this
22 act;

23 (ii) The financial obligations to complete activities described
24 in an approved plan and to reimburse service providers under section
25 117 of this act;

26 (iii) The funding required under section 104 of this act for the
27 reuse financial assistance program;

28 (iv) The operating costs of the producer responsibility
29 organization; and

30 (v) For establishment and maintenance of a financial reserve that
31 is sufficient to operate the program in a fiscally prudent and
32 responsible manner.

33 (3) Revenues collected under this section that exceed the amount
34 needed to pay the costs described in subsection (2)(f) of this
35 section must be used to improve or enhance program outcomes or to
36 reduce producer fees according to provisions of an approved plan.

37 (4) Fees collected from producers under this chapter may not be
38 used for lobbying or political advocacy activities that would require
39 reporting under chapter 42.17A RCW or under the federal election
40 campaign act, 2 U.S.C. chapter 14.

1 NEW SECTION. **Sec. 117.** SERVICE PROVIDER REIMBURSEMENT. (1) The
2 reimbursements provided for covered services to covered entities
3 under an approved plan must only be provided to service providers
4 that, at a minimum, meet the performance standards established under
5 an approved plan.

6 (2) (a) A plan must provide a methodology for reimbursement rates
7 for covered services for covered materials, exclusive of exempt
8 materials. The methodology for reimbursement rates must consider
9 estimated revenue received by service providers from the sale of
10 covered materials based on relevant material indices and incorporate
11 relevant cost information identified by the needs assessment.
12 Reimbursement rates must be annually updated and reflect the net
13 costs for covered services for covered materials from entities
14 receiving services under this chapter, at a minimum. Reimbursement
15 rates must be established equivalent to net costs, using a
16 methodology in an approved plan as follows:

17 (i) No less than 50 percent of the net costs by February 15,
18 2030;

19 (ii) No less than 75 percent of the net costs by February 15,
20 2031; and

21 (iii) No less than 90 percent of the net costs by February 15,
22 2032, and each year thereafter.

23 (b) Reimbursement rates must be based on the following, as
24 applicable by the service provided:

25 (i) The cost to collect covered material for recycling, a
26 proportional share of composting, or reuse adjusted to reflect
27 conditions that affect those costs, varied by region or jurisdiction
28 in which the covered services are provided including, but not limited
29 to:

30 (A) The number and type of covered entities;

31 (B) Population density;

32 (C) Collection methods employed;

33 (D) Distance traveled by collection vehicles to consolidation or
34 transfer facilities, to reuse, recycling, or composting facilities,
35 and to responsible markets;

36 (E) Other factors that may contribute to regional or
37 jurisdictional cost differences;

38 (F) The proportion of covered compostable materials within all
39 source separated compostable materials collected or managed through
40 composting; and

1 (G) The general quality of covered materials collected by service
2 providers;

3 (ii) The cost to transfer collected covered materials from
4 consolidation or transfer facilities to reuse, processing, recycling,
5 or composting facilities or to responsible markets;

6 (iii) The cost to:

7 (A) Sort and process covered materials for sale or use and remove
8 contamination from covered materials by a recycling or composting
9 facility, minus the average fair market value for that covered
10 material based on market indices for the region; and

11 (B) Manage contamination removed from collected covered material;

12 (iv) The administrative costs of service providers, including
13 education, public awareness campaigns, and outreach program costs as
14 applicable; and

15 (v) The costs of covered services for a refill system or covered
16 services provided for reusable covered materials and management of
17 contamination.

18 (c) A service provider retains all revenue from the sale of
19 covered materials unless otherwise agreed upon by the service
20 provider. Nothing in this chapter may restrict a service provider
21 from charging a fee for covered services for covered materials to the
22 extent that reimbursement from a producer responsibility organization
23 does not cover all costs of services, including continued investment
24 and innovation in operations, operating profits, and returns on
25 investments required by a service provider to provide sustainability
26 of the services.

27 (d) Reimbursement rates may be calculated per ton, by household,
28 or by another unit of measurement.

29 (3)(a) Nothing in this section may be construed to require a
30 government entity to agree to operate under a plan. Any government
31 entity that is also a service provider is eligible to be registered
32 with the department and reimbursed per the rates and schedule
33 established in accordance with this section.

34 (b) Nothing in this chapter restricts the authority of a
35 political subdivision of the state to provide waste management
36 services to residents, to contract with any entity to provide waste
37 management services, or to exercise its authority granted under RCW
38 35.21.120, 35.21.130, 35.21.152, or 36.58.040. A producer
39 responsibility organization may not restrict or otherwise interfere
40 with a government entity exercising its authority under RCW

1 35.21.120, 35.21.130, 35.21.152, or 36.58.040 to organize collection
2 of solid waste, including materials collected for recycling or
3 composting, or to extend, renew, or otherwise manage any contracts
4 entered into as a result of exercising such authority or otherwise
5 resulting from a competitive procurement process.

6 (4) A producer responsibility organization must establish a
7 dispute resolution process utilizing third-party mediators for
8 disputes related to reimbursements.

9 NEW SECTION. **Sec. 118.** INFRASTRUCTURE INVESTMENTS. (1) For
10 infrastructure investments, a producer responsibility organization
11 must use a competitive bidding process and publicly post bid
12 opportunities, except that preference must be given to existing
13 facilities and providers of services in the state for waste
14 reduction, refill, reuse, collection, recycling, and composting of
15 covered materials.

16 (2) A producer or producer responsibility organization may not
17 own or partially own infrastructure that is used to fulfill
18 obligations under this chapter, except in the following
19 circumstances:

20 (a) A producer may hold an ownership stake in infrastructure used
21 to fulfill obligations under this chapter as long as the stake was
22 held before the effective date of this section and the ownership
23 stake is fully disclosed by the producer to the producer
24 responsibility organization;

25 (b) After a bidding process described in subsection (1) of this
26 section under which no service provider bids on the contract, the
27 producer responsibility organization may make infrastructure
28 investments to implement the requirements of this chapter; or

29 (c) A producer or producer responsibility organization may own or
30 partially own infrastructure that is used solely for purposes of the
31 reuse financial assistance program or as needed to fulfill an
32 individual plan or alternative collection program.

33 (3) The direct or indirect receipt of funds from a producer
34 responsibility organization under this chapter does not confer any
35 inherent ownership or interest in any asset or company to which funds
36 are directed and does not confer any inherent right to control use of
37 any asset or company operations.

1 NEW SECTION. **Sec. 119.** EDUCATION AND OUTREACH. (1) A producer
2 responsibility organization must develop and maintain a public
3 website that uses best practices for accessibility and contains, at a
4 minimum:

5 (a) Information regarding a process that members of the public
6 may use to contact the producer responsibility organization with
7 questions;

8 (b) A directory of all service providers operating under the plan
9 administered by the producer responsibility organization, grouped by
10 location or government entity;

11 (c) Registration materials submitted to the department;

12 (d) The draft and approved plan and any draft and approved
13 amendments;

14 (e) The list of exempt materials under this chapter;

15 (f) Current and all past needs assessments;

16 (g) Annual reports submitted to the department by the producer
17 responsibility organization;

18 (h) A link to administrative rules implementing this chapter;

19 (i) Comments of the advisory council on the documents listed in
20 (d) and (f) of this subsection and the responses of the producer
21 responsibility organization to those comments;

22 (j) A list, updated at least monthly, of all member producers
23 that will operate under the plan administered by the producer
24 responsibility organization and, for each producer, a list of all
25 brands of the producer's covered materials; and

26 (k) Education materials on waste reduction, refill, reuse,
27 recycling, and composting for producers and the general public.

28 (2) A producer responsibility organization must implement
29 education and outreach activities that are conceptually,
30 linguistically, and culturally tailored to effectively reach diverse
31 residents and include culturally responsive materials and methods
32 that rely on evidence-based practices, are accessible, clear, and
33 support the achievement of the performance targets, including by
34 developing and providing educational materials, resources, and
35 campaigns that encourage and support recycling, composting, and reuse
36 behaviors by residents and visitors. Activities must:

37 (a) Assist producers in improving product labels as a means of
38 informing consumers about refill, reuse, recycling, composting, and
39 other environmentally sound methods of managing covered materials;

1 (b) Increase public awareness of how to use and manage covered
2 materials in an environmentally sound manner and how to access waste
3 reduction, refill, reuse, recycling, and composting services;

4 (c) Encourage behavior change to increase participation in waste
5 reduction, refill, reuse, recycling, and composting programs
6 including by considering motivational structures for recycling and
7 reuse by engaging local communities in the design and implementation
8 of programs and developing community-led solutions that are tailored
9 to their specific cultural practices and waste generation patterns;

10 (d) Reduce resident confusion regarding the appropriate solid
11 waste collection container or end-of-life management option for each
12 type of covered material; and

13 (e) Develop and provide education and outreach materials that are
14 able to be used by retail establishments, collectors, government
15 entities, service providers, schools, institutions, youth
16 organizations, and nonprofit organizations. Outreach materials must
17 be accessible in multiple languages and culturally appropriate
18 formats including by reaching non-English-speaking communities and by
19 using a variety of tailored media and behavior change strategies.

20 (3) A producer responsibility organization must coordinate with
21 registered service providers and any government entities that choose
22 to participate in carrying out education and outreach consistent with
23 the plan.

24 NEW SECTION. Sec. 120. ANNUAL REPORT. (1) By July 1, 2031, and
25 each July 1st thereafter, a producer responsibility organization must
26 submit an annual report to the department that contains, at a
27 minimum, the following information for the previous calendar year:

28 (a) The amount of covered materials introduced, by covered
29 materials type, reported in the same units used to establish producer
30 fees under this chapter;

31 (b) Progress made toward the performance targets reported in the
32 same units used to establish producer fees under this chapter, and
33 reported statewide and for each county, including:

34 (i) The amount of covered materials successfully source reduced,
35 reused, recycled, and composted by covered materials type and the
36 strategies or collection methods used; and

37 (ii) Information about third-party certifications obtained;

38 (c) The total cost to implement the program and a detailed
39 description of program expenditures by category, including:

(i) The total amount of producer fees collected;

(ii) A description of infrastructure investments made; and

(iii) A breakdown of reimbursements by covered services, entities receiving covered services, and regions of the state;

(d) A copy of a financial audit of program operations conducted by an independent auditor approved by the department that meets the requirements of the *Financial Accounting Standards Board's Accounting Standards* update 2016-14, not-for-profit entities (Topic 958), as it existed as of January 1, 2025, or an updated standard as required by the department by rule;

(e) A description of the program performance problems that emerged in specific locations and efforts taken or proposed by the producer responsibility organization to address them;

(f) A discussion of technical assistance provided to producers regarding toxic substances in covered materials and actions taken by producers to reduce intentionally added toxic substances and residual toxic substances from manufacturing in covered materials beyond compliance with prohibitions already established in law;

(g) A description of public awareness, education, and outreach activities undertaken, including any evaluations conducted of their efficacy, plans for next calendar year's activities, and an evaluation of the process established by the producer responsibility organization to answer questions from consumers regarding collection, recycling, composting, waste reduction, and reuse activities;

(h) A description, which includes quantitative measurements, of changes in levels of access to covered services for covered materials by socially vulnerable populations relative to levels of access to and participation in covered services for covered materials by socially vulnerable populations prior to the implementation of the first plan under this chapter;

(i) A summary of consultations held with the advisory council and how any feedback was incorporated into the report as a result, together with a list of rejected recommendations and the reasons for rejection;

(j) A list of producers found to be out of compliance with this chapter and actions taken by the producer responsibility organization to return producers to compliance, and notification of any producers that are no longer participating in the producer responsibility organization or who have been expelled due to their lack of compliance;

1 (k) Proposed amendments to the plan to improve program
2 performance or reduce costs, including changes to producer fees,
3 infrastructure investments, or reimbursement rates;

4 (l) Recommendations for additions or removals of covered
5 materials to or from the recyclable or compostable covered materials
6 lists established under section 109 of this act; and

7 (m) Information requested by the department to evaluate the
8 effectiveness of the program as it is described in the plan and to
9 assist with determining compliance with this chapter.

10 (2) A producer responsibility organization that fails to meet a
11 performance target approved in a plan must, within 90 days of filing
12 an annual report under this section, file with the department an
13 explanation of the factors contributing to the failure and propose an
14 amendment to the plan specifying changes in operations, including
15 education and outreach, that the producer responsibility organization
16 will make that are designed to achieve the performance targets. If a
17 performance target is unmet due to the lack of government entity
18 participation in the program, the department may revise the statewide
19 requirements. If a revision to the statewide requirements is
20 completed by the department, the producer responsibility organization
21 may revise the performance targets at the same time. An amendment
22 filed under this subsection must be reviewed by the advisory council
23 and approved by the department in the manner specified in section 106
24 of this act.

25 NEW SECTION. **Sec. 121.** INDEPENDENT REVIEW OF PROGRAM. (1)(a) By
26 January 1, 2028, the department must contract with an independent
27 consultant to carry out a one-time ex-ante analysis of each draft
28 plan submitted to the department by October 1, 2028, that addresses:

29 (i) The impact of the proposed program on the consumer prices of
30 covered materials and items sold with covered materials;

31 (ii) The impacts of the proposed program on environmental
32 justice, as defined in RCW 70A.02.010, and on the availability and
33 convenience of recycling, composting, and reuse services, including
34 specific analysis of the availability and convenience of recycling,
35 composting, and reuse services used by socially vulnerable
36 populations and in overburdened communities; and

37 (iii) Whether and how a beverage container deposit return program
38 could be established as a complement to the proposed plan, and
39 designed in a manner that would improve on the performance targets

1 and program outcomes proposed in the plan and in a manner that would
2 improve accessibility and convenience to recycling options for
3 beverage containers.

4 (b) The analysis must be informed by input from stakeholders and
5 informed by experience from other jurisdictions.

6 (c) The analysis must be completed and submitted to the
7 department by January 15, 2029.

8 (d) The department's contract with the independent consultant
9 must allow the consultant to begin its analysis prior to the
10 submission of the draft plan on October 1, 2028. The department must
11 require a producer responsibility organization to cooperate and share
12 information with the independent consultant hired by the department
13 to facilitate the consultant being able to complete its analysis in
14 time to allow for consideration by the 2029 legislature.

15 (e) The department must notify the appropriate committees of the
16 legislature upon the completion of the analysis under this subsection
17 (1).

18 (2) By September 1, 2038, the department must contract with an
19 independent consultant to analyze the impacts of the initial seven
20 years of program implementation and must submit a report summarizing
21 the analysis to the appropriate committees of the legislature. The
22 analysis must include the effects of the program on:

23 (a) Solid waste, composting, or recycling costs;

24 (b) Recycling rates, reuse rates, postconsumer recycled content
25 rates, source reduction rates, and composting rates; and

26 (c) The availability and convenience of recycling, composting,
27 and reuse services, including specific analysis of the availability
28 and convenience of recycling, composting, and reuse services used by
29 socially vulnerable populations.

30 (3) (a) The independent consultant, for purposes of the
31 independent review of the program carried out under this section, may
32 review:

33 (i) Information submitted to the department under section 120 of
34 this act; and

35 (ii) Producer or producer responsibility organization data or
36 information pertinent to the program.

37 (b) The independent consultant must treat confidential records in
38 a manner consistent with the department's policy under section 122 of
39 this act.

1 (4) To the extent that sufficient state-level data is not
2 available to complete the analyses required in subsection (2) of this
3 section, the independent consultant may review data or studies from
4 states with similar programs.

5 NEW SECTION. **Sec. 122.** CONFIDENTIAL INFORMATION SUBMISSION. A
6 producer responsibility organization, service provider, material
7 recovery facility, organic material management facility, responsible
8 market, or other entity that submits information or records to the
9 department under this chapter may request that the information or
10 records, including data related to business profits, service rates,
11 fees, or business expenses or private data on individuals, be made
12 available only for the confidential use of the department, the
13 director of the department, the appropriate division of the
14 department, or the independent consultant carrying out the
15 independent review of the program in section 121 of this act. The
16 director of the department must consider the request and if this
17 action is not detrimental to the public interest and is otherwise in
18 accordance with the policies and purposes of chapter 43.21A RCW, the
19 director must grant the request for the information to remain
20 confidential as authorized in RCW 43.21A.160.

21 NEW SECTION. **Sec. 123.** ENFORCEMENT AUTHORITY. (1)(a) The
22 department may administratively impose a civil penalty of up to
23 \$1,000 per violation per day on any producer who violates this
24 chapter and up to \$10,000 per violation per day for the second and
25 each subsequent violation.

26 (b) For a producer out of compliance with the requirements of
27 this chapter, the department shall provide written notification and
28 offer information. For the purposes of this subsection, written
29 notification serves as notice of the violation. The department must
30 issue at least one notice of violation by certified mail prior to
31 assessing a penalty and the department may only impose a penalty on a
32 producer that has not met the requirements of this chapter 60 days
33 following the date the written notification of the violation was
34 sent.

35 (2)(a) The department may administratively impose a civil penalty
36 of up to \$1,000 per violation per day on any producer responsibility
37 organization that violates this chapter and up to \$10,000 per
38 violation per day for the second and each subsequent violation.

1 (b) The department may, in addition to assessing the penalties
2 provided in (a) of this subsection, take any combination of the
3 following actions:

4 (i) Issue a corrective action order to a producer responsibility
5 organization;

6 (ii) Issue an order to a producer responsibility organization to
7 provide for the continued implementation of the program in the
8 absence of an approved plan;

9 (iii) Revoke the producer responsibility organization's plan
10 approval and require implementation of the contingency plan;

11 (iv) Require a producer responsibility organization to revise or
12 resubmit a plan within a specified time frame; or

13 (v) Require additional reporting related to the area of
14 noncompliance.

15 (c) Prior to taking an action described in this subsection, the
16 department must provide the producer responsibility organization an
17 opportunity to respond to or rebut the written finding upon which the
18 action is predicated.

19 (3) A person may not sell or distribute in or into the state a
20 covered material of a producer that is not participating in a
21 producer responsibility organization or that is not in compliance
22 with the requirements of this chapter or rules adopted under this
23 chapter.

24 (a) The department shall serve, or send with delivery
25 confirmation, a written warning explaining the violation to a person
26 distributing or selling covered materials of a producer that is not
27 in compliance with this chapter.

28 (b) The department may assess a penalty on a person that
29 continues to sell or distribute covered materials of a producer that
30 is in violation of this chapter 60 days after receipt of the written
31 warning under this subsection. The amount of the penalty that the
32 department may assess under this subsection is twice the value of the
33 covered materials sold in violation of this chapter or \$500,
34 whichever is greater. The department must waive the penalty upon
35 verification that the person has discontinued distribution or sales
36 of the covered material within 30 days of the date the penalty is
37 assessed.

38 (4) Any person who incurs a penalty or receives an order may
39 appeal the penalty or order to the pollution control hearings board
40 established in chapter 43.21B RCW.

(5) Penalties levied under this section must be deposited in the recycling enhancement account created in RCW 70A.245.100.

(6) Upon receipt of a request from the advisory council, the department must consider the appropriateness of the use of enforcement authority authorized in this section.

NEW SECTION. **Sec. 124.** STUDY OF DEPOSIT RETURN SYSTEM. (1) The department shall contract with an independent consultant to conduct two studies on the potential statewide impacts of a recycling refunds program, also known as a beverage container deposit return system, in Washington state. The studies must prioritize equity, accessibility, and community perspectives.

(2) The consultant, in coordination with the department, shall lead a community engagement process in at least three geographically diverse areas of the state with a high concentration of socially vulnerable or overburdened populations, as identified by the department consistent with RCW 70A.02.010. The results of this engagement process must be submitted to the legislature by January 1, 2027. The engagement process must:

(a) Solicit input on access to recycling and redemption services, local infrastructure needs, and community priorities related to convenience and equity;

(b) Assess consumer sentiment, awareness, and perceptions of a recycling refunds program, including perceived benefits, barriers to participation, and potential economic impacts, particularly for low-income households;

(c) Include:

(i) Community input sessions in overburdened communities;

(ii) Outreach to local governments, tribal governments, environmental justice and equity organizations, producers, recycling system operators, and other relevant stakeholders; and

(iii) Engagement with individuals and organizations concerned about the economic impacts of a recycling refunds program, particularly on low-income consumers; and

(d) Develop recommendations to ensure that a recycling refunds program is equitably accessible, convenient, and responsive to community needs across all regions of the state.

(3) In the same three regions required to be identified under subsection (2) of this section, the consultant shall evaluate and model what convenient access to redemption services would look like,

1 with respect to the types of express and full-service redemption
2 sites. The results of this engagement process must be submitted to
3 the legislature by January 1, 2026. This analysis must at a minimum
4 consider:

5 (a) The availability of suitable infrastructure for redemption
6 services that include reusable packaging;

7 (b) Accessibility via public transportation;

8 (c) Colocation opportunities with existing waste or recycling
9 facilities; and

10 (d) Strategies to reduce transportation burdens on residents in
11 rural, remote, and underserved communities.

12 (4) The department shall submit the consultant's findings and
13 recommendations to the appropriate committees of the house of
14 representatives and the senate by January 1, 2026, for the study
15 completed in subsection (3) of this section and January 1, 2027, for
16 the study completed in subsection (2) of this section.

17 (5) Registered producer responsibility organizations under
18 section 103 of this act are responsible for payment of the
19 department's cost to complete these studies as part of the one-time
20 payment due to the department on September 1, 2026, under section
21 103(4) of this act.

22 NEW SECTION. **Sec. 125.** DEPOSIT RETURN SYSTEM. (1) It is the
23 intent of the legislature that if a bottle deposit return system is
24 enacted in the future, it will be harmonized with this chapter in a
25 manner that ensures that:

26 (a) Materials covered in that system are exempt from this chapter
27 or related financial obligations are reduced;

28 (b) Colocation of drop-off collection sites is maximized;

29 (c) Education and outreach are integrated between the two
30 programs; and

31 (d) Waste reduction and reuse strategies are prioritized between
32 the two programs.

33 (2) Any implementation of a bottle deposit return system must
34 include a two-year transition period before the expiration of the
35 currently approved plan and be conducted in a manner that does not
36 create sudden and significant operational or financial disruption to
37 the implementation of a plan under this chapter, including provisions
38 of recycling or reuse services contained in the plan.

1 NEW SECTION. **Sec. 126.** PETITION FOR THE EXCLUSION OF CERTAIN
2 PRODUCTS. (1) Except as provided in subsection (4) of this section,
3 one year prior to the submission of a plan, a producer, group of
4 producers, or a producer responsibility organization may submit a
5 petition to the department to request for reasons of public health or
6 safety the temporary exclusion of packaging used to contain the
7 following categories of products, subcategories of the following
8 categories of products, or individual products:

9 (a) Raw meat products that are demonstrated to transfer pathogens
10 to direct contact packaging;

11 (b) Products regulated under the poison prevention packaging act
12 of 1970; and

13 (c) Products subject to requirements under federal laws that make
14 their inclusion in the requirements of this chapter infeasible or
15 inadvisable.

16 (2) A petition must provide information that is necessary and
17 sufficient for the department to make a determination including, at a
18 minimum, the following:

19 (a) The technical feasibility of including the category of
20 product, subcategory of product, or individual product in the program
21 created by this chapter, and in recycling the packaging of the
22 product or products;

23 (b) An analysis of any potential risks to public health and
24 safety associated with the inclusion of a category of product,
25 subcategory of product, or individual product in the program created
26 by this chapter, and in recycling the packaging of the product or
27 products; and

28 (c) The progress made by producers in achieving the goals of this
29 chapter, including by reducing the amount of packaging used with the
30 products, increasing the recycled content of the product packaging,
31 and increasing the ability of the products' packaging to be reused,
32 composted, or recycled if appropriate.

33 (3) The department must make a determination and notify the
34 petitioner within 90 days of receipt of the petition.

35 (4) The producer of a product that is temporarily excluded from
36 the requirements of this chapter under this section must report,
37 directly to the department in a form created by the department, the
38 information related to the temporarily excluded product that is
39 required to be reported to the department by producer responsibility
40 organizations under sections 103 and 120 of this act.

1 NEW SECTION. **Sec. 127.** IDENTIFICATION OF SOCIALLY VULNERABLE
2 POPULATIONS. (1) The department must periodically assess the
3 availability of, and methodology used by, the United States centers
4 for disease control and the agency for toxic substances and disease
5 registry's social vulnerability index, as compared to how it existed
6 as of January 1, 2025.

7 (2) If the department determines that the social vulnerability
8 index is no longer available in substantially the same form as it
9 existed on January 1, 2025, the department must notify each
10 registered producer responsibility organization that for purposes of
11 the identification of socially vulnerable populations under this
12 chapter, the department and producer responsibility organizations are
13 no longer required to reference the United States centers for disease
14 control and the agency for toxic substances and disease registry's
15 social vulnerability index. Instead, the department and registered
16 producer responsibility organizations must reference the alternative
17 populations specified in subsection (3) of this section.

18 (3)(a) Until such time as a rule is adopted under (b) of this
19 subsection, the department and registered producer responsibility
20 organizations must, for purposes of identifying socially vulnerable
21 populations, identify as socially vulnerable populations those
22 communities ranked as an eight or higher on the environmental health
23 disparities map developed under RCW 43.70.815.

24 (b) After making a determination under subsection (2) of this
25 section, by rule the department may, but is not required to, adopt an
26 alternative methodology for the identification of socially vulnerable
27 populations to replace the reference to the United States centers for
28 disease control and the agency for toxic substances and disease
29 registry's social vulnerability index. A rule adopted under this
30 subsection may, but is not required to, rely in whole or in part on
31 the environmental health disparities map developed by the department
32 of health under RCW 43.70.815.

33 NEW SECTION. **Sec. 128.** OTHER. (1) Nothing in this act impacts
34 an entity's eligibility for any state or local incentive or
35 assistance program to which they are otherwise eligible. Nothing in
36 this act limits the authority of private parties or government
37 entities to enter into contracts.

38 (2) Nothing in this chapter authorizes the department or a
39 producer responsibility organization to impose any requirement, in

1 direct conflict with a federal law or regulation including, but not
2 limited to:

3 (a) Laws or regulations covering tamper-evident packaging
4 pursuant to 21 C.F.R. Sec. 211.132;

5 (b) Laws or regulations covering child-resistant packaging
6 pursuant to 16 C.F.R. Sec. 1700.1, et seq.;

7 (c) Regulations, rules, or guidelines issued by the United States
8 department of agriculture or the United States food and drug
9 administration related to packaging agricultural commodities; and

10 (d) Requirements for microbial contamination, structural
11 integrity, or safety of packaging, where no viable recyclable or
12 compostable packaging that can meet the requirements exists, pursuant
13 to:

14 (i) The federal food, drug, and cosmetic act (21 U.S.C. Sec. 301,
15 et seq.);

16 (ii) 21 U.S.C. Sec. 2101, et seq.;

17 (iii) The federal food and drug administration food safety
18 modernization act (21 U.S.C. Sec. 2201, et seq.);

19 (iv) The federal poultry products inspection act (21 U.S.C. Sec.
20 451, et seq.);

21 (v) The federal meat inspection act (21 U.S.C. Sec. 601, et
22 seq.); or

23 (vi) The federal egg products inspection act (21 U.S.C. Sec.
24 1031, et seq.).

25 (3) No penalty may be assessed under this chapter on an
26 individual or resident for the improper disposal of covered materials
27 in a noncommercial or residential setting.

28 (4) Nothing in this chapter limits the authority of the utilities
29 and transportation commission to regulate collection of solid waste,
30 including curbside collection of residential recyclable materials, in
31 accordance with chapter 81.77 RCW.

32 (5) Nothing in this chapter affects the authority or duties of
33 the department of agriculture related to pest and noxious weed
34 control and quarantine measures under chapter 17.24 RCW.

35 NEW SECTION. **Sec. 129.** ACCOUNT. The responsible recycling
36 management account is created in the custody of the state treasurer.
37 All receipts received by the department under this chapter must be
38 deposited in the account. Only the director of the department or the
39 director's designee may authorize expenditures from the account. The

1 account is subject to the allotment procedures under chapter 43.88
2 RCW, but an appropriation is not required for expenditures.
3 Expenditures from the account may be used by the department only for
4 implementing, administering, and enforcing the requirements of this
5 chapter, and by the department of labor and industries necessary to
6 cover the cost for the implementation and enforcement of section 304
7 of this act. It is the intent of the legislature that the portion of
8 the producer responsibility organization fee received in 2026 for the
9 costs of the department be transferred to whichever state account was
10 used to cover the costs of the department prior to the payment of the
11 producer responsibility organization fee in 2026.

12 **Part Two**

13 **Amendments to Existing Solid Waste Management Laws**

14 **Sec. 201.** RCW 70A.205.045 and 2020 c 20 s 1163 are each amended
15 to read as follows:

16 Each county and city comprehensive solid waste management plan
17 shall include the following:

18 (1) A detailed inventory and description of all existing solid
19 waste handling facilities including an inventory of any deficiencies
20 in meeting current solid waste handling needs.

21 (2) The estimated long-range needs for solid waste handling
22 facilities projected (~~((twenty))~~) 20 years into the future.

23 (3) A program for the orderly development of solid waste handling
24 facilities in a manner consistent with the plans for the entire
25 county which shall:

26 (a) Meet the minimum functional standards for solid waste
27 handling adopted by the department and all laws and regulations
28 relating to air and water pollution, fire prevention, flood control,
29 and protection of public health;

30 (b) Take into account the comprehensive land use plan of each
31 jurisdiction;

32 (c) Contain a six year construction and capital acquisition
33 program for solid waste handling facilities; and

34 (d) Contain a plan for financing both capital costs and
35 operational expenditures of the proposed solid waste management
36 system.

37 (4) A program for surveillance and control.

1 (5) A current inventory and description of solid waste collection
2 needs and operations within each respective jurisdiction which shall
3 include:

4 (a) Any franchise for solid waste collection granted by the
5 utilities and transportation commission in the respective
6 jurisdictions including the name of the holder of the franchise and
7 the address of his or her place of business and the area covered by
8 the franchise;

9 (b) Any city solid waste operation within the county and the
10 boundaries of such operation;

11 (c) The population density of each area serviced by a city
12 operation or by a franchised operation within the respective
13 jurisdictions;

14 (d) The projected solid waste collection needs for the respective
15 jurisdictions for the next six years.

16 (6) A comprehensive waste reduction and recycling element that,
17 in accordance with the priorities established in RCW 70A.205.005,
18 provides programs that (a) reduce the amount of waste generated, (b)
19 provide incentives and mechanisms for source separation, and (c)
20 establish recycling opportunities for the source separated waste.

21 (7) The waste reduction and recycling element shall include the
22 following:

23 (a) Waste reduction strategies, which may include strategies to
24 reduce wasted food and food waste that are designed to achieve the
25 goals established in RCW 70A.205.715(1) and that are consistent with
26 the plan developed in RCW 70A.205.715(3);

27 (b) Source separation strategies, including:

28 (i) Programs for the collection of source separated materials
29 from residences (~~(in urban and rural areas. In urban areas, these)~~).

30 (A) Until January 1, 2030, these programs shall include
31 collection of source separated recyclable materials from single and
32 multiple-family residences, in urban areas, unless the department
33 approves an alternative program, according to the criteria in the
34 planning guidelines. Such criteria shall include: Anticipated
35 recovery rates and levels of public participation, availability of
36 environmentally sound disposal capacity, access to markets for
37 recyclable materials, unreasonable cost impacts on the ratepayer over
38 the six-year planning period, utilization of environmentally sound
39 waste reduction and recycling technologies, and other factors as
40 appropriate. In rural areas, these programs shall include but not be

1 limited to drop-off boxes, buy-back centers, or a combination of
2 both, at each solid waste transfer, processing, or disposal site, or
3 at locations convenient to the residents of the county. The drop-off
4 boxes and buy-back centers may be owned or operated by public,
5 nonprofit, or private persons;

6 (B) Except as provided in (b) (i) (C) of this subsection, beginning
7 January 1, 2030, these programs shall:

8 (I) Provide curbside collection of source separated recyclable
9 materials from single-family and multiple-family residences wherever
10 curbside garbage collection services are provided to these entities;

11 (II) Include materials on the statewide collection list
12 designated for residential collection established by the department;
13 and

14 (III) Include service standards for curbside collection
15 frequency, container size, and method of collection, established
16 under plans approved by the department under chapter 70A.--- RCW (the
17 new chapter created in section 401 of this act);

18 (C) A county may, by ordinance, direct that the full list of
19 materials on the statewide collection list identified as suitable for
20 residential collection be collected exclusively through drop-off
21 locations in areas regulated by the utilities and transportation
22 commission under the provisions of chapter 81.77 RCW if the areas
23 were designated as rural in the county solid waste management plan
24 and no curbside recycling collection service was offered within those
25 areas as of January 1, 2025. Where a county has adopted such an
26 ordinance, the provisions of (b) (i) (B) of this subsection do not
27 apply;

28 (D) Comprehensive solid waste management plans may incorporate by
29 reference programs described in an approved producer responsibility
30 organization plan under chapter 70A.--- RCW (the new chapter created
31 in section 401 of this act) to fulfill the requirements of this
32 subsection (7) (b) (i) in whole or in part;

33 (E) Before January 1, 2030, each comprehensive solid waste
34 management plan must be amended, revised, or updated by a
35 jurisdiction consistent with the requirements of this subsection
36 (7) (b) (i). If a comprehensive solid waste management plan has not
37 been amended, revised, or updated before January 1, 2030, to be
38 consistent with the requirements of this subsection (7) (b) (i),
39 beginning January 1, 2030, the model comprehensive solid waste plan

1 amendment provided by the department under section 106 of this act
2 applies in the jurisdiction;

3 (ii) Programs to monitor the collection of source separated waste
4 at nonresidential sites where there is sufficient density to sustain
5 a program;

6 (iii) Programs to collect yard waste and food waste, if the
7 county or city submitting the plan finds that there are adequate
8 markets or capacity for composted yard waste and food waste within or
9 near the service area to consume the majority of the material
10 collected; and

11 (iv) Programs to educate and promote the concepts of waste
12 reduction, refill, reuse, and recycling;

13 (c) Recycling strategies for materials not covered under chapter
14 70A.--- RCW (the new chapter created in section 401 of this act),
15 including a description of markets for recyclables, a review of waste
16 generation trends, a description of waste composition, a discussion
17 and description of existing programs and any additional programs
18 needed to assist public and private sector recycling, and an
19 implementation schedule for the designation of specific materials to
20 be collected for recycling, and for the provision of recycling
21 collection services;

22 (d) Other information the county or city submitting the plan
23 determines is necessary.

24 (8) An assessment of the plan's impact on the costs of solid
25 waste collection. The assessment shall be prepared in conformance
26 with guidelines established by the utilities and transportation
27 commission. The commission shall cooperate with the Washington state
28 association of counties and the association of Washington cities in
29 establishing such guidelines.

30 (9) A review of potential areas that meet the criteria as
31 outlined in RCW 70A.205.110.

32 (10) A contamination reduction and outreach plan. The
33 contamination reduction and outreach plan must address reducing
34 contamination in recycling. Except for counties with a population of
35 (~~(twenty-five thousand)~~) 25,000 or fewer, by July 1, 2021, a
36 contamination reduction and outreach plan must be included in each
37 solid waste management plan by a plan amendment or included when
38 revising or updating a solid waste management plan developed under
39 this chapter. Jurisdictions may adopt the state's contamination
40 reduction and outreach plan as developed under RCW 70A.205.070 or

1 participate in a producer responsibility organization's plan under
2 chapter 70A.--- RCW (the new chapter created in section 401 of this
3 act) in lieu of creating their own plan. A recycling contamination
4 reduction and outreach plan must include the following:

5 (a) A list of actions for reducing contamination in recycling
6 programs for single-family and multiple-family residences, commercial
7 locations, and drop boxes depending on the jurisdictions system
8 components;

9 (b) A list of key contaminants identified by the jurisdiction or
10 identified by the department;

11 (c) A discussion of problem contaminants and the contaminants'
12 impact on the collection system;

13 (d) An analysis of the costs and other impacts associated with
14 contaminants to the recycling system; and

15 (e) An implementation schedule and details of how outreach is to
16 be conducted. Contamination reduction education methods may include
17 sharing community-wide messaging through newsletters, articles,
18 mailers, social media, websites, or community events, informing
19 recycling drop box customers about contamination, and improving
20 signage.

21 **Sec. 202.** RCW 70A.205.500 and 1988 c 175 s 3 are each amended to
22 read as follows:

23 (~~(The department of ecology, at))~~ At the request of a local
24 government jurisdiction, the department or a producer responsibility
25 organization implementing a plan under chapter 70A.--- RCW (the new
26 chapter created in section 401 of this act) may periodically provide
27 educational material promoting household waste reduction and
28 recycling to public and private refuse haulers. The educational
29 material shall be distributed to households receiving refuse
30 collection service by local governments or the refuse hauler
31 providing service. The refuse hauler may distribute the educational
32 material by any means that assures timely delivery.

33 Reasonable expenses incurred in the distribution of this material
34 shall be considered, for rate-making purposes, as legitimate
35 operating expenses of garbage and refuse haulers regulated under
36 chapter 81.77 RCW.

37 **Sec. 203.** RCW 81.77.030 and 2020 c 20 s 1467 are each amended to
38 read as follows:

1 (1) The commission shall supervise and regulate every solid waste
2 collection company in this state,

3 ~~((1))~~ (a) By fixing and altering its rates, charges,
4 classifications, rules and regulations;

5 ~~((2))~~ (b) By regulating the accounts, service, and safety of
6 operations;

7 ~~((3))~~ (c) By requiring the filing of annual and other reports
8 and data;

9 ~~((4))~~ (d) By supervising and regulating such persons or
10 companies in all other matters affecting the relationship between
11 them and the public which they serve;

12 ~~((5))~~ (e) By requiring compliance with local solid waste
13 management plans and related implementation ordinances;

14 ~~((6))~~ (f) By reviewing producer responsibility organization
15 reimbursement of regulated service providers consistent with the
16 requirements of chapter 70A.--- RCW (the new chapter created in
17 section 401 of this act);

18 (g) By requiring certificate holders under this chapter ~~((81.77~~
19 ~~RCW))~~ to use rate structures and billing systems consistent with the
20 solid waste management priorities set forth under RCW 70A.205.005 and
21 the minimum levels of solid waste collection and recycling services
22 pursuant to local comprehensive solid waste management plans. The
23 commission may order consolidated billing and provide for reasonable
24 and necessary expenses to be paid to the administering company if
25 more than one certificate is granted in an area; and

26 (h) By requiring certificate holders under this chapter to
27 deliver covered materials only to responsible markets, as those terms
28 are defined in section 102 of this act.

29 (2) The commission, on complaint made on its own motion or by an
30 aggrieved party, at any time, after providing the holder of any
31 certificate with notice and an opportunity for a hearing at which it
32 shall be proven that the holder has willfully violated or refused to
33 observe any of the commission's orders, rules, or regulations, or has
34 failed to operate as a solid waste collection company for a period of
35 at least one year preceding the filing of the complaint, may suspend,
36 revoke, alter, or amend any certificate issued under the provisions
37 of this chapter.

38 **Sec. 204.** RCW 81.77.160 and 1997 c 434 s 1 are each amended to
39 read as follows:

1 (1) The commission, in fixing and altering collection rates
2 charged by every solid waste collection company under this section,
3 shall include in the base for the collection rates:

4 (a) All charges for the disposal of solid waste at the facility
5 or facilities designated by a local jurisdiction under a local
6 comprehensive solid waste management plan or ordinance; ~~((and))~~

7 (b) All known and measurable costs related to implementation of
8 the approved county or city comprehensive solid waste management
9 plan; and

10 (c) All costs related to the implementation of curbside recycling
11 collection services performed by a solid waste collection company
12 consistent with chapter 70A.--- RCW (the new chapter created in
13 section 401 of this act).

14 (2) If a solid waste collection company files a tariff to recover
15 the costs specified under this section, and the commission suspends
16 the tariff, the portion of the tariff covering costs specified in
17 this section shall be placed in effect by the commission at the
18 request of the company on an interim basis as of the originally filed
19 effective date, subject to refund, pending the commission's final
20 order. The commission may adopt rules to implement this section.

21 (3) This section applies to a solid waste collection company that
22 has an affiliated interest under chapter 81.16 RCW with a facility,
23 if the total cost of disposal, including waste transfer, transport,
24 and disposal charges, at the facility is equal to or lower than any
25 other reasonable and currently available option.

26 **Sec. 205.** RCW 81.77.185 and 2010 c 154 s 3 are each amended to
27 read as follows:

28 (1) The commission shall allow solid waste collection companies
29 collecting recyclable materials other than covered materials
30 collected under an approved plan in chapter 70A.--- RCW (the new
31 chapter created in section 401 of this act) to retain up to ~~((fifty))~~
32 50 percent of the revenue paid to the companies for the material if
33 the companies submit a plan to the commission that is certified by
34 the appropriate local government authority as being consistent with
35 the local government solid waste plan and that demonstrates how the
36 revenues will be used to increase recycling. The remaining revenue
37 shall be passed to residential customers.

38 (2) By December 2, 2005, the commission shall provide a report to
39 the legislature that evaluates:

- (a) The effectiveness of revenue sharing as an incentive to increase recycling in the state; and
- (b) The effect of revenue sharing on costs to customers.

Part Three

Other Conforming Amendments and Miscellaneous Provisions

Sec. 301. RCW 43.21B.110 and 2024 c 347 s 5, 2024 c 340 s 4, and 2024 c 339 s 16 are each reenacted and amended to read as follows:

(1) The hearings board shall only have jurisdiction to hear and decide appeals from the following decisions of the department, the director, local conservation districts, the air pollution control boards or authorities as established pursuant to chapter 70A.15 RCW, local health departments, the department of natural resources, the department of fish and wildlife, the parks and recreation commission, and authorized public entities described in chapter 79.100 RCW:

(a) Civil penalties imposed pursuant to chapter 70A.230 RCW and RCW 18.104.155, 70A.15.3160, 70A.300.090, 70A.20.050, 70A.230.020, 70A.205.280, 70A.355.070, 70A.430.070, 70A.500.260, 70A.505.100, 70A.505.110, 70A.530.040, 70A.350.070, 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080, 70A.245.130, 70A.245.140, 70A.65.200, 70A.455.090, 70A.550.030, 70A.555.110, 70A.560.020, section 123 of this act, 70A.565.030, 76.09.170, 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

(b) Orders issued pursuant to RCW 18.104.043, 18.104.060, 18.104.130, 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.15.4530, 70A.15.6010, 70A.205.280, 70A.214.140, 70A.300.120, 70A.350.070, 70A.245.020, 70A.65.200, 70A.505.100, 70A.555.110, 70A.560.020, section 123 of this act, 70A.565.030, 86.16.020, 88.46.070, 90.03.665, 90.14.130, 90.46.250, 90.48.120, 90.48.240, 90.56.330, and 90.64.040.

(c) Except as provided in RCW 90.03.210(2), the issuance, modification, or termination of any permit, certificate, or license by the department or any air authority in the exercise of its jurisdiction, including the issuance or termination of a waste disposal permit, the denial of an application for a waste disposal permit, the modification of the conditions or the terms of a waste disposal permit, a decision to approve or deny a solid waste management plan under RCW 70A.205.055, approval or denial of an

1 application for a beneficial use determination under RCW 70A.205.260,
2 an application for a change under RCW 90.03.383, or a permit to
3 distribute reclaimed water under RCW 90.46.220.

4 (d) Decisions of local health departments regarding the granting
5 or denial of solid waste permits pursuant to chapter 70A.205 RCW,
6 including appeals by the department as provided in RCW 70A.205.130.

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.

12 (g) Decisions of local conservation districts related to the
13 denial of approval or denial of certification of a dairy nutrient
14 management plan; conditions contained in a plan; application of any
15 dairy nutrient management practices, standards, methods, and
16 technologies to a particular dairy farm; and failure to adhere to the
17 plan review and approval timelines in RCW 90.64.026 as provided in
18 RCW 90.64.028.

19 (h) Any other decision by the department or an air authority
20 which pursuant to law must be decided as an adjudicative proceeding
21 under chapter 34.05 RCW.

22 (i) Decisions of the department of natural resources, the
23 department of fish and wildlife, and the department that are
24 reviewable under chapter 76.09 RCW, and the department of natural
25 resources' appeals of county, city, or town objections under RCW
26 76.09.050(7).

27 (j) Forest health hazard orders issued by the commissioner of
28 public lands under RCW 76.06.180.

29 (k) Decisions of the department of fish and wildlife to issue,
30 deny, condition, or modify a hydraulic project approval permit under
31 chapter 77.55 RCW, to issue a stop work order, to issue a notice to
32 comply, to issue a civil penalty, or to issue a notice of intent to
33 disapprove applications.

34 (l) Decisions of the department of natural resources that are
35 reviewable under RCW 78.44.270.

36 (m) Decisions of an authorized public entity under RCW 79.100.010
37 to take temporary possession or custody of a vessel or to contest the
38 amount of reimbursement owed that are reviewable by the hearings
39 board under RCW 79.100.120.

1 (n) Decisions of the department of ecology that are appealable
2 under RCW 70A.245.020 to set recycled minimum postconsumer content
3 for ((covered)) products or to temporarily exclude types of
4 ((covered)) products in plastic containers from minimum postconsumer
5 recycled content requirements.

6 (o) Orders by the department of ecology under RCW 70A.455.080.

7 (p) Decisions by the department of ecology under section 115(5)
8 of this act regarding a proposal by a producer responsibility
9 organization to count materials sent to an alternative recycling
10 facility towards recycling performance targets.

11 (2) The following hearings shall not be conducted by the hearings
12 board:

13 (a) Hearings required by law to be conducted by the shorelines
14 hearings board pursuant to chapter 90.58 RCW, except where appeals to
15 the pollution control hearings board and appeals to the shorelines
16 hearings board have been consolidated pursuant to RCW 43.21B.340.

17 (b) Hearings conducted by the department pursuant to RCW
18 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,
19 70A.15.3110, and 90.44.180.

20 (c) Appeals of decisions by the department under RCW 90.03.110
21 and 90.44.220.

22 (d) Hearings conducted by the department to adopt, modify, or
23 repeal rules.

24 (3) Review of rules and regulations adopted by the hearings board
25 shall be subject to review in accordance with the provisions of the
26 administrative procedure act, chapter 34.05 RCW.

27 **Sec. 302.** RCW 43.21B.300 and 2024 c 347 s 6 and 2024 c 340 s 5
28 are each reenacted and amended to read as follows:

29 (1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160,
30 70A.205.280, 70A.230.080, 70A.300.090, 70A.20.050, 70A.245.040,
31 70A.245.050, 70A.245.070, 70A.245.080, 70A.245.130, 70A.245.140,
32 70A.65.200, 70A.430.070, 70A.455.090, 70A.500.260, 70A.505.110,
33 70A.555.110, 70A.560.020, section 123 of this act, 70A.565.030,
34 86.16.081, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310,
35 90.56.330, and 90.64.102 and chapter 70A.355 RCW shall be imposed by
36 a notice in writing, either by certified mail with return receipt
37 requested or by personal service, to the person incurring the penalty
38 from the department or the local air authority, describing the
39 violation with reasonable particularity. For penalties issued by

1 local air authorities, within 30 days after the notice is received,
2 the person incurring the penalty may apply in writing to the
3 authority for the remission or mitigation of the penalty. Upon
4 receipt of the application, the authority may remit or mitigate the
5 penalty upon whatever terms the authority in its discretion deems
6 proper. The authority may ascertain the facts regarding all such
7 applications in such reasonable manner and under such rules as it may
8 deem proper and shall remit or mitigate the penalty only upon a
9 demonstration of extraordinary circumstances such as the presence of
10 information or factors not considered in setting the original
11 penalty.

12 (2) Any penalty imposed under this section may be appealed to the
13 pollution control hearings board in accordance with this chapter if
14 the appeal is filed with the hearings board and served on the
15 department or authority 30 days after the date of receipt by the
16 person penalized of the notice imposing the penalty or 30 days after
17 the date of receipt of the notice of disposition by a local air
18 authority of the application for relief from penalty.

19 (3) A penalty shall become due and payable on the later of:

20 (a) 30 days after receipt of the notice imposing the penalty;

21 (b) 30 days after receipt of the notice of disposition by a local
22 air authority on application for relief from penalty, if such an
23 application is made; or

24 (c) 30 days after receipt of the notice of decision of the
25 hearings board if the penalty is appealed.

26 (4) If the amount of any penalty is not paid to the department
27 within 30 days after it becomes due and payable, the attorney
28 general, upon request of the department, shall bring an action in the
29 name of the state of Washington in the superior court of Thurston
30 county, or of any county in which the violator does business, to
31 recover the penalty. If the amount of the penalty is not paid to the
32 authority within 30 days after it becomes due and payable, the
33 authority may bring an action to recover the penalty in the superior
34 court of the county of the authority's main office or of any county
35 in which the violator does business. In these actions, the procedures
36 and rules of evidence shall be the same as in an ordinary civil
37 action.

38 (5) All penalties recovered shall be paid into the state treasury
39 and credited to the general fund except the following:

1 (a) Penalties imposed pursuant to RCW 18.104.155 must be credited
2 to the reclamation account as provided in RCW 18.104.155(7);

3 (b) Penalties imposed pursuant to RCW 70A.15.3160 must be
4 disposed of pursuant to RCW 70A.15.3160;

5 (c) Penalties imposed pursuant to RCW 70A.230.080, 70A.300.090,
6 70A.430.070, 70A.555.110, ~~((and))~~ 70A.560.020, and 70A.565.030 must
7 be credited to the model toxics control operating account created in
8 RCW 70A.305.180;

9 (d) Penalties imposed pursuant to RCW 70A.245.040 ~~((and))~~,
10 70A.245.050, and chapter 70A.--- RCW (the new chapter created in
11 section 401 of this act) must be credited to the recycling
12 enhancement account created in RCW 70A.245.100;

13 (e) Penalties imposed pursuant to RCW 70A.500.260 must be
14 deposited into the electronic products recycling account created in
15 RCW 70A.500.130;

16 (f) Penalties imposed pursuant to RCW 70A.65.200 must be credited
17 to the climate investment account created in RCW 70A.65.250;

18 (g) Penalties imposed pursuant to RCW 90.56.330 must be credited
19 to the coastal protection fund established in RCW 90.48.390; and

20 (h) Penalties imposed pursuant to RCW 70A.355.070 must be
21 credited to the underground storage tank account created in RCW
22 70A.355.090.

23 NEW SECTION. Sec. 303. LITTER TAX STUDY. (1) In consultation
24 with producer responsibility organizations registered with the
25 department of ecology under chapter 70A.--- RCW (the new chapter
26 created in section 401 of this act), the department of ecology and,
27 for the purposes of (c) of this subsection, the department of revenue
28 must study:

29 (a) The impacts of producer requirements under chapter 70A.---
30 RCW (the new chapter created in section 401 of this act) on the
31 litter rates of covered materials under that chapter;

32 (b) The extent to which covered materials contribute to litter
33 and marine debris for the purpose of informing how a producer
34 responsibility organization implementing a plan can support litter
35 and marine debris prevention as it relates to activities required
36 under chapter 70A.--- RCW (the new chapter created in section 401 of
37 this act). The assessment should draw on available data, assess gaps,
38 and identify strategies for improving prevention and cleanup of
39 litter and marine debris from covered materials; and

1 (c) Possible improvements to the structure of the litter tax
2 under chapter 82.19 RCW including administration, compliance, and
3 distribution of the tax and application of the tax to certain
4 products, for achieving the purpose of chapter 82.19 RCW. The
5 improvements to the structure of the litter tax to be studied under
6 this section may not include an increase in the rate of the litter
7 tax under chapter 82.19 RCW or an expansion of the types of covered
8 materials under chapter 70A.--- RCW (the new chapter created in
9 section 401 of this act) that are subject to the litter tax.

10 (2) By January 1, 2030, the department of ecology, in
11 consultation with the department of revenue, must provide
12 recommendations to the appropriate committees of the legislature on:

13 (a) Applicability of the litter tax to covered materials, based
14 on whether the purpose of the litter tax under chapter 82.19 RCW is
15 being achieved for those materials by the requirements of producers
16 under chapter 70A.--- RCW (the new chapter created in section 401 of
17 this act); and

18 (b) Improvements to the structure of the litter tax for meeting
19 the purposes of chapter 82.19 RCW.

20 (3) This section expires July 1, 2030.

21 NEW SECTION. **Sec. 304.** A new section is added to chapter 49.46
22 RCW to read as follows:

23 (1) Employers associated with a material recovery facility that
24 annually manages 25,000 tons or more of covered materials under
25 chapter 70A.--- RCW (the new chapter created in section 401 of this
26 act) must ensure that workers at the facility receive minimum
27 industry standard compensation, beginning October 1, 2028.

28 (2) Employers are not required to establish "usual benefit"
29 programs. However, if an employer chooses not to provide such
30 benefits, wages paid must be at the full minimum industry standard
31 rate.

32 (3)(a) If more than one collective bargaining agreement exists
33 that covers similar or equivalent work in the same county, the higher
34 rate applies.

35 (b) If no collective bargaining agreement exists that covers
36 similar or equivalent work in the same county, the rate in the county
37 with a collective bargaining agreement that is closest geographically
38 applies.

1 (4) The minimum industry standard compensation requirements of
2 this section constitute a wage payment requirement as defined in RCW
3 49.48.082. The department of labor and industries may otherwise
4 enforce this provision as a wage under RCW 49.48.040 through
5 49.48.080 and the applicable provisions of chapter 49.52 RCW.

6 (5)(a) The director may initiate an investigation without an
7 employee's complaint to ensure compliance with this section. The
8 department of labor and industries may also initiate an investigation
9 on behalf of one or more employees when the director has reason to
10 believe that a violation has occurred or will occur.

11 (b) The department of labor and industries may conduct a
12 consolidated investigation for any alleged violation identified under
13 this section, or associated rules, when there are common questions of
14 law or fact. If the department of labor and industries consolidates
15 such matters into a single investigation, the department of labor and
16 industries must provide notice to the employer.

17 (c) The department of labor and industries may request that an
18 employer perform a self-audit of any records relating to this
19 section, which must be provided within a reasonable time. Reasonable
20 timelines will be specified in the self-audit request. The department
21 of labor and industries must determine reasonable time based on the
22 number of affected employees and the period of time covered by the
23 self-audit. The records examined by the employer in order to perform
24 the self-audit must be made available to the department of labor and
25 industries upon request.

26 (d) Upon request of the department of labor and industries, an
27 employer must notify affected employees in writing that the
28 department is conducting an investigation. The department of labor
29 and industries may require the employer to include a general
30 description of each investigation as part of the notification,
31 including the allegations and whether the notified employee may be
32 affected. The employer may consult with the department of labor and
33 industries to provide the information for the description of the
34 notification of investigation.

35 (e) Upon receiving a complaint, the department of labor and
36 industries may request or subpoena the records of the material
37 recovery facility.

38 (f) In addition to any enforcement authority provided in this
39 section or applicable rules, the department of labor and industries
40 may enforce any violation under this section or applicable rules by

1 filing an action in the superior court for the county in which the
2 violation is alleged to have occurred. If the department of labor and
3 industries prevails, the department is entitled to reasonable
4 attorneys' fees and costs, in the amount to be determined by the
5 court.

6 (6) The department of labor and industries may adopt rules to
7 implement this section.

8 (7) The definitions in this subsection apply throughout this
9 section unless the context clearly requires otherwise.

10 (a) "Minimum industry standard compensation" means a wage and
11 usual benefits package equal to or greater than the combined hourly
12 wage and usual benefits package set by a collective bargaining
13 agreement that covers similar or equivalent work in a county.

14 (b) "Rate of contribution" means the effective annual rate of
15 usual benefit contributions for all hours, public and private, worked
16 during the year by an employee (commonly referred to as
17 "annualization" of benefits). The only exemption to the annualization
18 requirements is for defined contribution pension plans that have
19 immediate participation and vesting.

20 (c) (i) "Usual benefits" includes the amount of:

21 (A) The rate of contribution irrevocably made by an employer to a
22 trustee or to a third person pursuant to a fund, plan, or program;
23 and

24 (B) The rate of costs to the employer, which may be reasonably
25 anticipated in providing benefits to workers pursuant to an
26 enforceable commitment to carry out a financially responsible plan or
27 program that was communicated in writing to the workers affected, for
28 medical or hospital care, pensions on retirement or death,
29 compensation for all injuries or illness resulting from occupational
30 activity, or insurance to provide any of the foregoing, for
31 unemployment benefits, life insurance, disability and sickness
32 insurance, or accident insurance, for vacation and holiday pay, for
33 defraying costs of apprenticeship or other similar programs, or for
34 other bona fide fringe benefits, but only where the employer is not
35 required by other federal, state, or local law to provide any of
36 these benefits.

37 (ii) To be deemed a "usual benefit," both of the following
38 requirements must be satisfied:

39 (A) Employer payments for the usual benefit are made only in
40 conformance with all applicable federal and state laws, including the

requirements of the employment retirement income security act of 1974, as amended, and of the internal revenue service; and

(B) Employee payments toward the usual benefit, through self-contribution, payroll deduction, or otherwise, do not constitute a credit to the employer for minimum industry standard compensation purposes.

Sec. 305. RCW 49.48.082 and 2010 c 42 s 1 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this section and RCW 49.48.083 through 49.48.086:

(1) "Citation" means a written determination by the department that a wage payment requirement has been violated.

(2) "Department" means the department of labor and industries.

(3) "Determination of compliance" means a written determination by the department that wage payment requirements have not been violated.

(4) "Director" means the director of the department of labor and industries, or the director's authorized representative.

(5) "Employee" has the meaning provided in: (a) RCW 49.46.010 for purposes of a wage payment requirement set forth in RCW 49.46.020 or 49.46.130; and (b) RCW 49.12.005 for purposes of a wage payment requirement set forth in RCW 49.48.010, 49.52.050, or 49.52.060.

(6) "Employer" has the meaning provided in RCW 49.46.010 for purposes of a wage payment requirement set forth in RCW 49.46.020, 49.46.130, 49.48.010, 49.52.050, or 49.52.060.

(7) "Notice of assessment" means a written notice by the department that, based on a citation, the employer shall pay the amounts assessed under RCW 49.48.083.

(8) "Repeat willful violator" means any employer that has been the subject of a final and binding citation and notice of assessment for a willful violation of a wage payment requirement within three years of the date of issue of the most recent citation and notice of assessment for a willful violation of a wage payment requirement.

(9) "Successor" means any person to whom an employer quitting, selling out, exchanging, or disposing of a business sells or otherwise conveys in bulk and not in the ordinary course of the employer's business, more than ((fifty)) 50 percent of the property, whether real or personal, tangible or intangible, of the employer's business.

1 (10) "Wage" has the meaning provided in RCW 49.46.010.

2 (11) "Wage complaint" means a complaint from an employee to the
3 department that asserts that an employer has violated one or more
4 wage payment requirements and that is reduced to writing.

5 (12) "Wage payment requirement" means a wage payment requirement
6 set forth in RCW 49.46.020, 49.46.130, 49.48.010, 49.52.050, ~~((or))~~
7 49.52.060, or section 304 of this act, and any related rules adopted
8 by the department.

9 (13) "Willful" means a knowing and intentional action that is
10 neither accidental nor the result of a bona fide dispute, as
11 evaluated under the standards applicable to wage payment violations
12 under RCW 49.52.050(2).

13 **Sec. 306.** RCW 70A.245.100 and 2021 c 313 s 13 are each amended
14 to read as follows:

15 The recycling enhancement account is created in the custody of
16 the state treasurer. All penalties collected by the department
17 pursuant to RCW 70A.245.040 ~~((and))~~, 70A.245.050, and section 123 of
18 this act must be deposited in the account. Only the director of the
19 department or the director's designee may authorize expenditures from
20 the account. The account is subject to the allotment procedures under
21 chapter 43.88 RCW, but an appropriation is not required for
22 expenditures. Expenditures from the account may be used by the
23 department only for providing grants to local governments for the
24 purpose of supporting local solid waste and financial assistance
25 programs.

26 NEW SECTION. **Sec. 307.** If any provision of this act or its
27 application to any person or circumstance is held invalid, the
28 remainder of the act or the application of the provision to other
29 persons or circumstances is not affected.

30 NEW SECTION. **Sec. 308.** If specific funding for the purposes of
31 this act, referencing this act by bill or chapter number, is not
32 provided by June 30, 2025, in the omnibus appropriations act, this
33 act is null and void.

34 **Part Four**
35 **Codification Directives**

1 NEW SECTION. **Sec. 401.** Sections 101 through 129 of this act
2 constitute a new chapter in Title 70A RCW.

Passed by the Senate April 23, 2025.

Passed by the House April 14, 2025.

Approved by the Governor May 17, 2025.

Filed in Office of Secretary of State May 19, 2025.

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