

Proposed Substitute House Bill 1131 (H-0947.1)

House Environment & Energy Committee

By Representative Berry

Original Bill:

Improving Washington's solid waste management outcomes.

Proposed Substitute (H-0947.1) compared to the original bill:

Extended Producer Responsibility:

- Amends definitions, including the assignment of responsibility to persons as a 'producer' of a product, to require that 'compostable' products meet the requirements for products labeled as compostable under existing state law, specifying that 'covered products' are limited to products that are sold to consumers for personal and non-commercial use.
- Exempts additional products from producer responsibility organization (PRO) participation requirements, including: (1) liquified petroleum gas containers designed to be refilled and reused; (2) packaging materials in direct contact with regulated animal biologics including vaccines and diagnostic kits; (3) packaging related to containers of architectural paint collected by a Washington paint stewardship program; and (4) newspapers and paper designed for building construction.
- Allows activities to eliminate plastic packaging to result in the replacement of a plastic component with a non-plastic component.
- Requires the Department of Ecology (Ecology) to accept only one registered PRO for the term of the initial PRO plan period, except for any producers that choose to register individually and implement a single-producer plan.
- Requires PROs to submit a coordination plan if multiple PROs are registered with Ecology.
- Extends the duration of the initial plan implementation period from three years to five years.
- Delays by six months or one year most deadlines for the initiation of PRO responsibilities, including requirements to register with Ecology, submit a plan to Ecology, begin implementing the plan, and begin submitting annual reports to Ecology.
- Clarifies that any rules adopted by Ecology that require covered product collection services from public places or official gathering apply only at locations where a local government provides solid waste services, and may not include retail establishments, and requires public place recycling needs to be included in a needs assessment prior to the adoption of Ecology's rules.
- References specific solid waste and recycling studies carried out under Ecology that must be included in the performance rates study used to inform the performance rates proposed in a PRO's plan.

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- Eliminates certain elements of the stakeholder consultation process that PROs must carry out prior to the submission of plans and plan updates to Ecology, including eliminating the requirement to hold quarterly public meetings.
- Eliminates the process for requiring a prudency review by the Utilities and Transportation Commission (UTC) of reimbursement rates paid to government entities.
- Clarifies that individual producers are not required to redesign covered products to reduce waste or be recyclable, reusable or compostable, and that individual products are not required to be designed to be reusable, recyclable, or compostable.
- Requires the process to resolve disputes between a PRO and government entities related to determining and paying reasonable government costs to specifically be a third-party process, and eliminates the advisory council's review of this process.
- Requires PRO plans to include a plan for coordinating with any distributor responsibility organizations formed, in addition to other PROs.
- Eliminates specifics regarding how recycling performance rates for specific materials must be calculated, and instead requires Ecology to adopt rules for the measurement of performance rates for material categories.
- Requires de minimis levels above which producers may be assessed fees by a PRO to be determined based on weight of products sold into Washington.
- Specifies that producer responsibility organization fees must be set so as to seek to avoid any material category subsidizing another category of material.
- Adds home and industrial composting to the designs that could be encouraged through a PRO's use of eco-modulation factors in establishing producer fees.
- Authorizes counties to adopt ordinances to provide for the collection of covered products in areas regulated by the UTC through alternatives to curbside recycling collection, rather than through curbside recycling collection funded by a PRO.
- Narrows the standards that a PRO may establish for solid waste collection companies with a UTC certificate to curbside collection service standards.
- Eliminates provisions applicable to services standards between a PRO and government entities and other service providers, including the application of labor standards, the provision of fair opportunities for specified demographic groups, and competitive procurement practices for services other than curbside collection service providers.
- Requires a PRO's investments in infrastructure to prioritize investment in preexisting infrastructure in Washington.
- Eliminates requirements that annual reports by PRO assess net greenhouse gas emissions associated with program operations.
- Specifies that local government representation on the advisory council must include two representatives of counties and two of cities, of which one each must be representatives of rural communities and one of urban communities.
- Provides that a PRO may only impose a penalty on a producer after providing a producer 60 days after a notice of violation to come into compliance.

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- Directs penalty collections to the Recycling Enhancement Account used for grants to local governments for solid waste activities, rather than to the responsible packaging management account.
- Specifies that requirements related to the labeling of the recyclability of products apply to products subject to postconsumer recycled content requirements (PCRC) and qualifying beverage containers under a deposit return system, in addition to covered products under a PRO.
- Authorizes the Department of Ecology to use the regional or multi-state clearinghouse for purposes of facilitating PCRC requirements, and to require third-party e-commerce sellers to register and use the clearinghouse, in addition to producers.
- Expands the eligibility for the process to petition Ecology for a temporary exclusion from PRO participation requirements to apply to any products that are subject to requirements under federal laws that make inclusion in the PRO infeasible or inadvisable.
- Authorizes Ecology to exempt categories or sub-categories of products from PRO requirements under the petition process, in addition to exempting individual products under the petition process.

Postconsumer Recycled Content:

- Amends definitions, including the assignment of responsibility to persons as a 'producer' of a product, and limiting plastic beverage containers subject to minimum PCRC requirements to those solely made of plastic material.
- Excludes liners, corks, closures, labels, and other items added to plastic bottle containers other than a cap or lid from the minimum PCRC requirements applicable to plastic beverage containers.
- Specifies that producers subject to minimum PCRC requirements managed through a PRO must continue to register and report directly to Ecology regarding PCRC content until a PRO registers with Ecology.
- Restores the process for the temporary exclusion from PCRC requirements applicable to products whose PCRC requirements are directly overseen by Ecology.
- Provides for producers of PCRC products managed through a PRO to obtain certificates of compliance for PCRC content in a manner similar to that allowed for producers whose PCRC requirements are managed directly by Ecology.
- Specifies that PCRC requirements for pesticide products apply only to pesticide products that are household cleaning products or personal care products.
- Eliminates PCRC requirements for cannabis-based products.
- Directs the Liquor and Cannabis Board to update cannabis packaging rules to reduce plastic packaging in an amount commensurate with a PRO's source reduction rate, to allow for and encourage the reuse of cannabis containers, and authorizes the Liquor and Cannabis Board to adopt PCRC rules for cannabis packaging in consultation with Ecology.
- Eliminates PCRC requirements for collection bins used for solid waste services.

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- Requires plastic trash bags producer certificates of PCRC compliance to be conducted by a third-party independent and accredited certification entity.
- Eliminates authority for a PRO to establish minimum PCRC requirements for plastic products that are additional to statutory PCRC requirements.

Deposit Return System:

- Authorizes beverage containers for wine to satisfy the requirement to display the refund value of the container through the use of a quick response (QR) code.
- Requires distributor responsibility organizations to describe, in their plans, how they will interact with PROs.
- Clarifies that the establishment of a deposit return system does not obligate any persons or business to use the deposit return system, and does not preclude the recycling of qualifying beverage containers via curbside recycling collection systems.

Other:

- Adds a statement to the intent section noting the continuance of certain elements of the state's system of solid waste planning and oversight.
- Eliminates the statement in the intent section stating a policy to achieve an overall 90 percent recycling and reuse rate by 2035.

1 AN ACT Relating to improving Washington's solid waste management
2 outcomes; amending RCW 70A.245.010, 70A.245.020, 70A.245.030,
3 70A.245.040, 70A.245.090, 70A.245.100, 70A.245.120, 70A.245.060,
4 70A.205.005, 70A.205.010, 70A.205.045, 81.77.030, 81.77.040,
5 81.77.160, 81.77.185, 43.21B.110, and 43.21B.300; adding a new
6 section to chapter 70A.222 RCW; adding a new section to chapter
7 70A.350 RCW; adding a new section to chapter 70A.245 RCW; adding a
8 new section to chapter 70A.230 RCW; adding a new section to chapter
9 70A.340 RCW; adding a new section to chapter 70A.455 RCW; adding a
10 new section to chapter 69.50 RCW; adding new chapters to Title 70A
11 RCW; creating a new section; repealing RCW 70A.245.110; prescribing
12 penalties; and providing an expiration date.

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

14 **Part One**
15 **Providing for Producer Responsibility in the Management of Packaging**
16 **and Paper Products**

17 NEW SECTION. **Sec. 101.** FINDINGS—INTENT. (1) The legislature
18 finds that, as of 2023, Washington's statewide waste recovery rate,
19 which seeks to preserve public health, safety, and welfare, and
20 conserve energy and natural resources, has been on a declining trend

1 since 2011 and that Washington is not meeting the statewide goal of
2 50 percent recycling established in 1989.

3 (2) The legislature finds that packaging designs and materials
4 have changed and the way Washington's residents use, consume, and
5 manage materials when no longer wanted has also changed significantly
6 in recent years. These shifts have created unintended consequences,
7 such as the deterioration of ecosystems regionally and worldwide, as
8 well as increased levels of pollution and greenhouse gas emissions
9 that contribute to global climate change, and reductions in human
10 well-being, especially for the most vulnerable populations.

11 (3) The legislature finds that convenient and environmentally
12 sound extended producer responsibility programs that include
13 collecting, transporting, reusing, and recycling, or the proper end-
14 of-life management of unwanted products help protect Washington's
15 environment and the health of state residents. In general, the
16 state's waste management hierarchy establishes that products should
17 be managed in a manner where a priority is placed on prevention,
18 waste reduction, source reduction, reuse, and recycling over energy
19 recovery and landfill disposal.

20 (4) The legislature finds that many residents, particularly those
21 who live in rural areas and in multifamily residences, do not have
22 access to convenient or affordable curbside recycling, and must rely
23 on taking recyclables to drop box locations, and that extended
24 producer responsibility programs could make curbside recycling
25 available and affordable for most people in the state.

26 (5) The legislature also finds that the department of ecology was
27 directed, through an independent consultant, to study how plastic
28 packaging is managed in the state, assess various policy options, and
29 that the study recommendations included establishing an extended
30 producer responsibility policy for all consumer packaging and paper
31 products with a framework that makes producers responsible for
32 achieving specific management and environmental outcomes for the
33 packaging and paper products they supply into Washington state, as
34 well as recommending that postconsumer recycled content requirements
35 and a deposit return system for beverage containers be established.

36 (6) In addition, the legislature finds extended producer
37 responsibility policies designed to cover all consumer packaging and
38 paper materials offer the potential for greater economies of scale
39 and operational efficiencies than could be achieved under a policy
40 applied only to a subset of materials.

1 (7) It is the intent of the legislature to require that extended
2 producer responsibility programs, including the achievement of
3 recycling rates, are implemented by and for producers of consumer
4 packaging and paper products in a manner that involves producers in
5 material management from design concept to end-of-life. These
6 programs incentivize innovation and research to develop more
7 efficient recycling technologies and minimize environmental impacts
8 of the packaging and paper products.

9 (8) It is also intended that these programs be responsibly
10 managed, so that covered products are handled and accounted for from
11 the point of collection through the final destination in a way that
12 benefits the environment and minimizes risks to public health and
13 worker health and safety. It is intended that these programs build
14 and expand on the existing waste and recycling system's
15 infrastructure and reliance on the role of local governments and the
16 utilities and transportation commission in solid waste management.

17 (9) It is also the intent of the legislature that producers
18 increase the use of postconsumer recycled content in their products,
19 to achieve the goals in RCW 70A.520.010(2), in order to create strong
20 markets for recycled materials and achieve environmental benefits.

21 (10) It is the intent of the legislature that, through design and
22 innovation, producers will reduce the use and climate impact of
23 consumer packaging and paper products, increase the use of
24 postconsumer recycled content, and make all packaging reusable,
25 recyclable, or compostable.

26 (11) Finally, it is the intent of the legislature that Washington
27 should maintain the successful public-private partnership between
28 state, local government, and solid waste and recycling service
29 providers. The legislature does not intend to diminish or displace
30 the primary role of the utilities and transportation commission and
31 local governments in regulating or contracting directly with service
32 providers for the curbside collection of residential recyclables.
33 Local governments maintain their existing authority to collect,
34 contract for collection with solid waste and recycling service
35 providers, or defer to solid waste collection services regulated by
36 the utilities and transportation commission.

37 NEW SECTION. **Sec. 102.** DEFINITIONS. The definitions in this
38 section apply throughout this chapter unless the context clearly
39 requires otherwise.

1 (1) "Advisory council" means the advisory council created in
2 section 120 of this act.

3 (2) "Alternative recycling process" means a recycling process
4 that occurs other than through purely mechanical means.

5 (3) "Aluminum" means a covered product made of the chemical
6 element aluminum that forms a silvery white to dull gray, nonmagnetic
7 metal.

8 (4) "Brand" means a name, symbol, word, logo, or mark that
9 identifies a product and attributes the product and its components,
10 including packaging, to the brand owner of the product as the
11 producer.

12 (5) "Brand owner" means a person who owns or licenses a brand or
13 who otherwise has rights to market a product under the brand, whether
14 or not the brand trademark is registered.

15 (6) "Compostable" means a product that is capable of undergoing
16 aerobic biological decomposition in a composting system, that results
17 in the material being broken down primarily into carbon dioxide,
18 water, inorganic compounds, and biomass, and is in compliance with
19 the requirements for a product labeled as compostable under chapter
20 70A.455 RCW.

21 (7) "Composting system" means a system meeting the requirements
22 of chapter 70A.205 RCW applicable to facilities that treat solid
23 waste for composting.

24 (8) "Consumer" means a person who purchases or receives a covered
25 product and is the intended end user or recipient of the covered
26 product.

27 (9) "Contamination" means:

28 (a) The presence of materials in a given collected material
29 stream that are not on the list of materials designated for
30 collection in that material stream; or

31 (b) The presence of materials in a given recycled material
32 delivered as a feedstock or commodity that are not specified or
33 accepted as a component of the feedstock or commodity.

34 (10) "Covered product" means packaging and paper products sold or
35 supplied to consumers for personal, noncommercial use.

36 (11) "Department" means the department of ecology.

37 (12) "Designated for collection" means the covered products that
38 are included in the material categories listed in a producer
39 responsibility organization's plan to be collected for reuse or
40 recycling.

1 (13) "Eliminate" or "elimination," with respect to source
2 reduction, means the removal of a plastic component from a covered
3 material.

4 (14) "Final disposition" means the point at which a covered
5 product:

6 (a) Becomes a reused material;

7 (b) Becomes a recycled material; or

8 (c) Is delivered to a disposal site, as defined in RCW
9 70A.205.015.

10 (15) "Flexible plastic" means any covered product made of
11 polymers that is flexible in form, including films and multilayer
12 laminates.

13 (16) "Glass" means a covered product made of soda lime glass.

14 (17) "Government entity" means any:

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

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

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

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

25 (18) "Material category" means a group of covered products
26 defined by the producer responsibility organization that have similar
27 properties such as chemical composition, shape, or other
28 characteristics including, but not limited to:

29 (a) Plastic beverage containers;

30 (b) Rigid plastic, excluding plastic beverage containers;

31 (c) Flexible plastic;

32 (d) Paper;

33 (e) Aluminum;

34 (f) Steel; and

35 (g) Glass.

36 (19) "Overburdened communities" means the overburdened
37 communities identified and prioritized by the department under RCW
38 70A.02.050(1)(a).

39 (20)(a) "Packaging" means a material, substance, or object that
40 is:

1 (i) Used to protect, contain, transport, or serve a product;
2 (ii) Sold or supplied to consumers expressly for the purpose of
3 protecting, containing, transporting, or serving products;
4 (iii) Attached to a product or its container for the purpose of
5 marketing or communicating information about the product;
6 (iv) Supplied at the point of sale to facilitate the delivery of
7 the product; or
8 (v) Supplied to or purchased by consumers expressly for the
9 purpose of facilitating food or beverage consumption that is
10 ordinarily discarded by consumers after a single use or short-term
11 use, whether or not it could be reused.

12 (b) "Packaging" does not include:

13 (i) Materials intended to be used for the long-term storage or
14 protection of a durable product, that is intended to transport,
15 protect, or store the product on an ongoing basis, and that can be
16 expected to be usable for that purpose for a period of at least five
17 years;

18 (ii) For purposes of this chapter only, materials used to package
19 pesticide products regulated by the federal insecticide, fungicide,
20 and rodenticide act, 7 U.S.C. Sec. 136 et seq. that are in direct
21 contact with the regulated product. This exemption does not include
22 products regulated by the United States food and drug administration;

23 (iii) Products excluded temporarily under section 128 of this
24 act;

25 (iv) Qualifying beverage containers, but not secondary or
26 ancillary packaging, subject to the requirements of chapter 70A.---
27 RCW (the new chapter created in section 603 of this act), upon the
28 receipt by the department of a written notice under section 302 of
29 this act regarding the designation of a distributor responsibility
30 organization to implement a deposit return system under chapter
31 70A.--- RCW (the new chapter created in section 603 of this act);

32 (v) Liquified petroleum gas containers that are designed to be
33 refilled and reused;

34 (vi) Packaging material that is in direct contact with a product
35 that is regulated as animal biologics, including vaccines, bacterins,
36 antisera, diagnostic kits, and other products of biological origin
37 under the federal virus-serum-toxin act, 21 U.S.C. Sec. 151 et seq.,
38 as amended; and

1 (vii) Packaging related to containers of architectural paint that
2 has been collected by a stewardship organization under the program
3 established in chapter 70A.515 RCW.

4 (21) "Paper" means packaging or paper products made of paper
5 fiber, regardless of its cellulosic fiber source, which may include,
6 but is not limited to: Wood, wheat, rice, cotton, bananas,
7 eucalyptus, bamboo, hemp, and sugar cane or bagasse.

8 (22) "Paper product" means paper sold or supplied including, but
9 not limited to, flyers, brochures, booklets, catalogs, magazines,
10 copy paper, printing paper, and all other paper materials except for:
11 (a) Bound books; (b) conservation grade and archival grade paper; (c)
12 newspapers; (d) paper designed for use in building construction; and
13 (e) paper products that, by any common and foreseeable use, could
14 reasonably be anticipated to become unsafe or unsanitary to handle.

15 (23) "Plan" means description of the approach and activities
16 developed by a producer responsibility organization to fulfill the
17 requirements and to carry out the responsibilities of producers under
18 this chapter.

19 (24) "Postconsumer recycled content" has the same meaning as
20 defined in section 201 of this act.

21 (25)(a) "Producer" means the following person responsible for
22 compliance with requirements under this chapter for a covered product
23 sold, offered for sale, or distributed in or into this state:

24 (i) For products sold in or with packaging at a physical retail
25 location in this state:

26 (A) If the product is sold in or with packaging under the brand
27 of the product manufacturer or is sold in packaging that lacks
28 identification of a brand, the producer of the packaging is the
29 person that manufactures the product;

30 (B) If the product is sold under a retail brand, the producer is
31 the retail brand owner;

32 (C) If the product is manufactured by a person other than the
33 brand owner, the producer of the packaging is the person that is the
34 licensee of a brand or trademark under which a packaged item is used
35 in a commercial enterprise, sold, offered for sale, or distributed in
36 or into this state, whether or not the trademark is registered in
37 this state; or

38 (D) If there is no person described in (a)(i)(A), (B), or (C) of
39 this subsection within the United States, the producer of the
40 packaging is the person who imports the packaged product into the

1 United States for use in a commercial enterprise that sells, offers
2 for sale, or distributes the product in this state.

3 (ii) For products sold or distributed in packaging in or into
4 this state via e-commerce, remote sale, or distribution:

5 (A) For packaging used to directly protect or contain the
6 product, the producer of packaging is the same as the producer for
7 purposes of (a)(i) of this subsection; and

8 (B) For packaging used to ship the product to a consumer, the
9 producer of the packaging is the person that packages and ships the
10 product to the consumer.

11 (iii) For packaging that is a covered product and is not included
12 in (a)(i) and (ii) of this subsection, the producer of the packaging
13 is the person that first distributes the packaged product in or into
14 this state.

15 (iv) For paper products that are magazines, newspapers, catalogs,
16 telephone directories, or similar publications, the producer is the
17 publisher.

18 (v) For paper products not described in (a)(iv) of this
19 subsection, the producer is:

20 (A) The person that manufactures the paper product under the
21 manufacturer's own brand;

22 (B) If the paper product is manufactured by a person other than
23 the brand owner, the producer of the paper product is the person that
24 is the owner or licensee of a brand or trademark under which the
25 paper product is used in a commercial enterprise, sold, offered for
26 sale, or distributed in or into this state, whether or not the
27 trademark is registered in this state; or

28 (C) If there is no person described in (a)(v)(A) or (B) of this
29 subsection within the United States, the producer of the paper
30 product is the person that imports the paper product into the United
31 States for use in a commercial enterprise that sells, offers for
32 sale, or distributes the paper product in this state.

33 (vi) A person who would be considered a "producer" of a covered
34 product sold, offered for sale, or distributed in or into this state,
35 as defined in (a)(i) through (v) of this subsection, can designate
36 another responsible producer for that covered product if another
37 person agrees to accept responsibility and has registered as the
38 producer responsible for that covered product under this chapter.

39 (b) "Producer" does not include:

1 (i) Government agencies, municipalities, or other political
2 subdivisions of the state;

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

5 (iii) De minimis producers that annually sell, offer for sale,
6 distribute, or import:

7 (A) In Washington state less than one ton of covered products;
8 and

9 (B) That have a global gross revenue of less than \$5,000,000 for
10 the most recent fiscal year of the organization.

11 (26) "Producer responsibility organization" means:

12 (a) A nonprofit organization that qualifies for a tax exemption
13 under 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code
14 and is designated by a producer or group of producers to develop and
15 carry out the activities required of producers by this chapter;

16 (b) Until January 15, 2026, an organization that has applied for
17 a tax exemption under 26 U.S.C. Sec. 501(c)(3) of the federal
18 internal revenue code and is designated by a producer or group of
19 producers to develop and carry out the activities required of
20 producers under this chapter;

21 (c) A producer that registers with the department as a producer
22 responsibility organization; or

23 (d) An organization as defined by rule by the department
24 consistent with section 104(6) of this act.

25 (27) "Program" means the activities conducted to implement an
26 approved producer responsibility organization plan.

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

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

36 (29) "Recyclable" means a covered product that is collected,
37 separated, and reprocessed into a recycled material, and that does
38 not contain harmful chemical, physical, biological, or radiological
39 substances that will pose a threat to human health or the environment
40 for its intended or likely manner of use.

1 (30) (a) "Recycled material" means material derived from covered
2 products that is reprocessed into products or delivered as feedstocks
3 or commodities to a responsible end market for use in the production
4 of new products whether for the original or another purpose.

5 (b) "Recycled material" does not include energy recovery and the
6 reprocessing of materials that are to be used as fuels or landfill
7 cover.

8 (31) "Responsible end market" means a materials market in which
9 the recycling of materials and the disposal of contaminants is
10 conducted in a way that:

11 (a) Minimizes impacts to the environment; and

12 (b) Minimizes risks to public health and worker health and
13 safety.

14 (32) "Responsible management" means the handling, tracking, and
15 disposition of covered products from the point of collection through
16 the final destination of the collected material in a way that
17 minimizes impacts to the environment and minimizes risks to public
18 health and worker health and safety.

19 (33) "Responsible producer" means a producer that is not a de
20 minimis producer.

21 (34) "Retail establishment" includes any person, corporation,
22 partnership, business, facility, vendor, organization, or individual
23 that sells or provides merchandise, goods, or materials directly to a
24 customer.

25 (35) "Reusable" means:

26 (a) For packaging that is reused or refilled by a producer, the
27 packaging satisfies all of the following:

28 (i) Explicitly designed and marketed to be utilized multiple
29 times for the same product, or for another purposeful packaging use
30 in a supply chain;

31 (ii) Designed for durability to function properly in its original
32 condition for multiple cycles of reuse or refill;

33 (iii) Supported by adequate infrastructure to ensure the
34 packaging can be conveniently and safely reused or refilled for
35 multiple cycles; and

36 (iv) Repeatedly recovered, inspected, and reissued into the
37 supply chain for reuse or refill for multiple cycles.

38 (b) For packaging that is reused or refilled by a consumer, the
39 packaging satisfies all of the following:

1 (i) Explicitly designed and marketed to be utilized multiple
2 times for the same product;

3 (ii) Designed for durability to function properly in its original
4 condition for utilization in multiple cycles of reuse or refill; and

5 (iii) Supported by adequate and convenient availability of
6 services or infrastructure to ensure the packaging can be
7 conveniently and safely reused or refilled by the consumer multiple
8 times.

9 (36) "Reused material" means material that is collected after use
10 and reused for its original or similar purpose or function.

11 (37) "Rigid plastic" means any covered product made of polymers
12 that is rigid or semirigid in form, including foams.

13 (38) "Socially just management" means practices that:

14 (a) Provide equitable access to and benefits from services,
15 regardless of race, income, socioeconomic status, health, and other
16 population vulnerability or sensitivity characteristics;

17 (b) Prevent or, if not preventable, minimize environmental harms
18 or risks; and

19 (c) Prevent or, if not preventable, minimize and mitigate impacts
20 to overburdened communities or vulnerable populations identified by
21 the department.

22 (39) "Steel" means any covered product made of a ferrous metal
23 substance.

24 (40) "Vulnerable populations" has the same meaning as defined in
25 RCW 70A.02.010.

26 NEW SECTION. **Sec. 103.** PRODUCER RESPONSIBILITY ORGANIZATION
27 DUTIES. (1)(a) Beginning July 15, 2024, each producer that offers for
28 sale, sells, or distributes in or into Washington a covered product
29 must join a producer responsibility organization that is registered
30 with the department or register with the department as a producer
31 responsibility organization. A producer that has not joined a
32 producer responsibility organization may not sell or supply covered
33 products in or into Washington.

34 (b) Until the conclusion of the initial plan implementation
35 period as provided under section 108 of this act, the department must
36 only accept the registration of a single producer responsibility
37 organization, other than any producers that register individually as
38 a producer responsibility organization. Until the conclusion of the
39 initial plan implementation period, producers of covered products

1 must either join the producer responsibility organization or register
2 individually as a producer responsibility organization for purposes
3 of compliance under this section. If applications for more than one
4 producer responsibility organization are submitted to the department
5 by July 15, 2024, not counting applications submitted by individual
6 producers, the department must determine which proposed producer
7 responsibility organization can most effectively implement this
8 chapter.

9 (c) If more than one producer responsibility organization is
10 registered with the department, the producer responsibility
11 organizations must submit a coordination plan to the department for
12 approval. If requested by the producer responsibility organizations,
13 the department may serve as a coordinating body or oversee
14 coordination of producer responsibility organization plans. The
15 requirements of this subsection apply to the initial plan period
16 consisting of a single producer responsibility organization and any
17 producers registering individually, and subsequent plan periods where
18 multiple producer responsibility organizations and individual
19 producers may register with the department.

20 (d) A person who would be determined to be the producer of a
21 covered product, based on the definition of "producer" as defined in
22 section 102 of this act, is not required to join a producer
23 responsibility organization for that covered product if another
24 person has joined a producer responsibility organization and
25 registered as the producer responsible for that covered product under
26 this chapter.

27 (2) A producer responsibility organization that meets the
28 definition under section 102 of this act that implements or proposes
29 to implement a plan under this chapter may not include on its board
30 of directors, or otherwise be governed by, representatives or
31 affiliates of any public or private entities that submit bids to
32 perform work for the producer responsibility organization or that
33 contract with the producer responsibility organization.

34 (3) By July 15, 2024, and each July 15th thereafter, each
35 producer, through a submission by a producer responsibility
36 organization, must register with the department. A registration
37 submission by a producer responsibility organization must include the
38 following:

39 (a) (i) A list of all their member producers and their brands of
40 covered products, and members of the board of directors;

1 (ii) If there are changes to the list of member producers and
2 brands or members of the board of directors by the end of a given
3 quarter, a producer responsibility organization must submit an
4 updated list to the department within 30 days of the end of that
5 quarter.

6 (b) Until a producer responsibility organization begins to submit
7 annual reports, as specified under section 119 or 209 of this act,
8 the following data for the prior calendar year:

9 (i) The weight, by material category, of covered products
10 supplied into the state to consumers;

11 (ii) A description of how the producer responsibility
12 organization has distinguished and apportioned the quantities of
13 packaging and paper products sold or supplied to consumers that are
14 considered covered products under this chapter, from quantities of
15 packaging and paper products sold or supplied for other uses that are
16 not considered covered products under this chapter. A producer
17 responsibility organization may rely on member reporting for this
18 description. The weight of any covered products that are reusable or
19 compostable must each be reported separately from the weight of other
20 types of covered products; and

21 (iii) A list of all member producers and their brands of
22 postconsumer recycled content products required to meet the
23 postconsumer recycled content requirements of chapter 70A.--- RCW
24 (the new chapter created in section 602 of this act).

25 (c) A producer responsibility organization may submit national or
26 regional data allocated on a per capita basis for Washington to
27 approximate the information required in this subsection if state-
28 level data is not available or feasible to generate.

29 (4) By June 30, 2025, and every June 30th thereafter, every
30 registered producer responsibility organization must submit an annual
31 payment to the department for the preceding fiscal year, as
32 determined by the department in section 104 of this act, to fund the:

33 (a) Costs to implement, administer, and enforce this chapter and
34 chapter 70A.--- RCW (the new chapter created in section 602 of this
35 act), including rule making;

36 (b) Statewide needs assessment established in section 105 of this
37 act; and

38 (c) Support and facilitation of the advisory council created in
39 section 120 of this act.

1 (5) Within six months of the first adoption of rules relating to
2 this chapter, every registered producer responsibility organization
3 must submit a plan meeting the requirements of section 107 of this
4 act to the department for approval consistent with the requirements
5 of this chapter.

6 (a) A producer responsibility organization registered with the
7 department as of July 15, 2026, must:

8 (i) Implement its plan as approved by the department by January
9 1, 2028, or within six months of plan approval, whichever is later;

10 (ii) Submit the annual postconsumer recycled content report to
11 the department in April for the prior calendar year required in
12 section 209 of this act; and

13 (iii) Submit an annual report for the prior calendar year to the
14 department consistent with section 119 of this act by July 1, 2029,
15 and each July 1st thereafter.

16 (b) A producer responsibility organization registering for the
17 first time with the department after July 15, 2026, must:

18 (i) Submit the list of producers, brands, board members, data,
19 and department payment as required in subsections (3) and (4) of this
20 section;

21 (ii) Submit a plan to the department for approval, informed by a
22 stakeholder consultation process and consistent with the requirements
23 of this chapter, within one year of registration;

24 (iii) Submit a new or revised plan within 60 days after receipt
25 of a letter of disapproval from the department, if applicable;

26 (iv) Implement its plan as approved by the department within six
27 months of approval;

28 (v) Submit the annual postconsumer recycled content report for
29 the prior calendar year required in section 209 of this act; and

30 (vi) Submit an annual report for the prior calendar year to the
31 department consistent with section 119 of this act by July 1st,
32 beginning the first year after plan implementation.

33 (6) A producer responsibility organization must respond, in
34 writing, to the advisory council's written comments and
35 recommendations within 60 days of receipt.

36 NEW SECTION. **Sec. 104.** DEPARTMENT'S DUTIES. (1) The department
37 must implement, administer, and enforce this chapter. The
38 department's implementation, administration, and enforcement duties
39 under this chapter, including the requirements of this section, are

1 supplemented by the provisions of chapter 70A.--- RCW (the new
2 chapter created in section 602 of this act).

3 (2)(a) By April 1, 2025, and every April 1st thereafter, the
4 department must:

5 (i) Prepare a workload analysis that identifies the projected
6 annual costs to implement, administer, and enforce this chapter and
7 chapter 70A.--- RCW (the new chapter created in section 602 of this
8 act), including rule making, in the next fiscal year;

9 (ii) Determine a total annual fee payment to be paid by each
10 producer responsibility organization that is adequate to cover, but
11 not exceed, the costs identified in (a)(i) of this subsection and the
12 costs of the:

13 (A) Performance rates study and the statewide needs assessment
14 established in section 105 of this act; and

15 (B) Support and facilitation of the advisory council created in
16 section 120 of this act;

17 (iii) Until rules are adopted under (a)(iv) of this subsection,
18 issue a general order to all registered producer responsibility
19 organizations. The department must equitably determine fee amounts
20 for producer responsibility organizations;

21 (iv) By 2026, adopt rules to equitably determine annual fee
22 payments by producer responsibility organizations. Once these rules
23 are adopted, the general order issued under (a)(iii) of this
24 subsection is no longer effective; and

25 (v) Send notice to producer responsibility organizations of fee
26 amounts due consistent with either the general order issued under
27 (a)(iii) of this subsection or rules adopted under (a)(iv) of this
28 subsection.

29 (b) The department must:

30 (i) Apply any remaining annual payment funds from the current
31 year to the annual payment for the coming fiscal year, if the
32 collected annual payment exceeds the costs identified under (a)(ii)
33 of this subsection for a given year; and

34 (ii) Increase annual payments for the coming fiscal year to cover
35 the costs identified under (a)(ii) of this subsection, if the
36 collected annual payment was less than the amount required to cover
37 those costs for a given year.

38 (3) The department must review the performance rates proposed by
39 producer responsibility organizations as required in section 111 of

1 this act and which must be achieved by the ninth calendar year from
2 the effective date of this section. The department must:

3 (a) Upon receipt from the producer responsibility organization,
4 make proposed performance rates available for public review and
5 comment for at least 30 days;

6 (b) Review proposed performance rates within 90 days of receipt
7 of a complete submission;

8 (c) Make a determination as to whether or not to approve proposed
9 performance rates and notify the producer responsibility organization
10 of the:

11 (i) Determination of approval if the submission meets the
12 requirements of this chapter, taking into consideration comments
13 received under (a) of this subsection; or

14 (ii) Reasons for not approving a submission of proposed
15 performance rates. The producer responsibility organization must
16 submit new or revised proposed performance rates within 30 days after
17 receipt of the letter of disapproval.

18 (4) (a) The department must review new, updated, and revised plans
19 submitted by producer responsibility organizations as required in
20 section 108 of this act. The department must:

21 (i) Make new, updated, and revised plans available for public
22 review and comment for at least 30 days prior to the department's
23 approval decision;

24 (ii) Review new, updated, and revised producer responsibility
25 organization plans within 120 days of receipt of a complete plan;

26 (iii) Make a determination as to whether or not to approve a
27 plan, plan update, or plan revision and notify the producer
28 responsibility organization of the:

29 (A) Determination of approval if a plan provides for a program
30 that meets the requirements of this chapter, taking into
31 consideration comments received under (a) (i) of this subsection; or

32 (B) Reasons for not approving a plan. The producer responsibility
33 organization must submit a new or revised plan within 60 days after
34 receipt of the letter of disapproval. In the event that a new or
35 revised plan submitted by a producer responsibility organization does
36 not sufficiently meet the requirements of this chapter, including any
37 deficiencies identified in the initial letter of disapproval, the
38 department may:

39 (I) Use the enforcement powers specified in section 123 of this
40 act; or

1 (II) Amend the contents of the insufficient new or revised plan
2 in a manner that ensures that the plan meets the requirements of this
3 chapter and the department may require the producer responsibility
4 organization to implement the plan as amended by the department.

5 (b) The approval of a plan by the department does not relieve
6 producers participating in the plan from responsibility for
7 fulfilling the requirements of this chapter.

8 (5) The department must review annual reports submitted by
9 producer responsibility organizations as required in section 119 of
10 this act and under chapter 70A.--- RCW (the new chapter created in
11 section 602 of this act). The department must:

12 (a) Make annual reports available for public review and comment
13 for at least 30 days upon the receipt of the annual report by the
14 department;

15 (b) Review within 120 days of receipt of a complete annual
16 report;

17 (c) Make a determination as to whether or not an annual report
18 meets the requirements of section 119 of this act and notify the
19 producer responsibility organization of the:

20 (i) Determination of approval of the annual report; or

21 (ii) Reasons for not approving the annual report. The producer
22 responsibility organization must submit a revised annual report
23 within 60 days after receipt of the letter of disapproval;

24 (d) Notify a producer responsibility organization if the annual
25 report demonstrates that the program and activities to implement the
26 plan fail to achieve the performance rates approved by the department
27 or otherwise fail to achieve significant requirements under this
28 chapter.

29 (6) The department must adopt rules as necessary to implement,
30 administer, and enforce this chapter.

31 (7) Except where otherwise provided in this chapter, the
32 department shall seek to adopt rules that are harmonized with the
33 regulatory standards, exemptions, reporting obligations, and other
34 compliance requirements of other states that:

35 (a) Have adopted producer responsibility programs similar to the
36 program established in this chapter; and

37 (b) (i) Are home to producers that supply, or have the potential
38 to supply, significant quantities of covered products to Washington
39 markets; or

1 (ii) To which Washington supplies, or has the potential to
2 supply, significant quantities of covered products.

3 (8) The department may by rule require producer responsibility
4 organizations to fund activities to make convenient collection
5 services available for recycling of covered products designated for
6 collection from locations or entities determined to be significant
7 sources of covered product waste and that are additional to those
8 locations identified under section 113 of this act. These locations
9 or entities may include, but are not limited to, public places and
10 official gatherings at which a local government provides solid waste
11 services. These locations or entities may not include retail
12 establishments. Rules adopted under this subsection apply to producer
13 responsibility organizations no earlier than January 1, 2029, and may
14 be updated no more frequently than every five years.

15 (9) The department must maintain a public website that:

16 (a) Lists each registered producer responsibility organization
17 along with its member producers and their covered products that are
18 included under the producer responsibility organization's plan; and

19 (b) Makes available each plan and annual report received by the
20 department under this chapter.

21 NEW SECTION. **Sec. 105.** RATE STUDY AND STATEWIDE NEEDS
22 ASSESSMENT. (1) To inform the implementation of the program, the
23 department must conduct a performance rates study and a statewide
24 needs assessment that must be:

25 (a) Carried out by a third-party consultant selected by the
26 department; and

27 (b) Funded through payments or reimbursements collected from
28 producer responsibility organizations.

29 (2) (a) The performance rates study must be completed by September
30 1, 2024, and must:

31 (i) Use the recycling rates from the department's *January 2023*
32 *Washington Consumer Packaging and Paper Study: Recycling Rate*
33 *Assessment and Recommendations;*

34 (ii) Use relevant information and recommendations from the
35 department's 2020 plastic packaging study reports, including:

36 (A) *Plastic Packaging in Washington: Assessing Use, Disposal, and*
37 *Management;*

38 (B) *Recycled Content Use in Washington: Assessing Demand,*
39 *Barriers, and Opportunities;*

1 (C) *Successful Plastic Packaging Management Programs and*
2 *Innovations: Washington Plastic Packaging Management Study;*

3 (D) *Recommendations for Managing Plastic Packaging Waste in*
4 *Washington;* and

5 (E) *Evaluation, Assessment, and Recommendations for the*
6 *Responsible Management of Plastic Packaging in Washington;*

7 (iii) Review the performance rates set and achieved in
8 jurisdictions with producer responsibility programs for packaging or
9 similar programs and evaluate whether those rates are applicable in
10 the state;

11 (iv) Recommend performance rates, including:

12 (A) A rate for the overall combined reuse and recycling of
13 covered products;

14 (B) A separate specific minimum reuse rate, that must be counted
15 within the overall combined reuse and recycling rate;

16 (C) A source reduction rate to be achieved solely by eliminating
17 plastic components; and

18 (D) If a distributor responsibility organization under chapter
19 70A.--- RCW (the new chapter created in section 603 of this act) has
20 notified the department of its intent to implement a deposit return
21 system at least six months prior to the date of the completion of a
22 new or updated performance rates study under this section, alternate
23 rates as described under (a) (iv) (A) through (C) of this subsection
24 that exclude qualifying beverage containers that are to be managed
25 under the deposit return system.

26 (b) Recommendations under (a) of this subsection must consider
27 the feasibility of achieving recommended rates based on current rates
28 achieved in the state, rates achieved in other jurisdictions with
29 similar programs, and additional relevant data. The recommended
30 performance rates must be designed to be achieved for covered
31 products statewide by 2032.

32 (c) The advisory council and any producer responsibility
33 organization that is registered with the department by July 15, 2024,
34 must have the opportunity to review and comment on a draft
35 performance rates study prior to its completion.

36 (d) No more frequently than every five years, the department may
37 update the performance rates study required under this section,
38 consistent with subsection (1) of this section.

39 (3) The first statewide needs assessment must be completed by
40 July 1, 2025, and must be consistent with the following requirements:

1 (a) The final scope of the statewide needs assessment must be
2 determined after considering comments and recommendations from the
3 advisory council established in section 120 of this act, from the
4 utilities and transportation commission, and from any producer
5 responsibility organization that is registered with the department by
6 July 15, 2024; and

7 (b) The utilities and transportation commission, the advisory
8 council created in section 120 of this act, and registered producer
9 responsibility organizations must have the opportunity to review and
10 comment on the draft statewide needs assessment prior to its
11 completion.

12 (4) The statewide needs assessment must be:

13 (a) Informed by the findings and recommendations of the
14 performance rates study established in this section and the rates
15 submitted by producer responsibility organizations and approved by
16 the department under section 111 of this act; and

17 (b) Accepted from the selected consultant as complete by the
18 department.

19 (5) The statewide needs assessment must:

20 (a) Evaluate the capacity, costs, gaps, and needs for the
21 following factors:

22 (i) Availability and types of recycling services for covered
23 products relative to the convenience standards specified in section
24 113 of this act and to additional potential service methods
25 recommended by producer responsibility organizations during the study
26 scoping process;

27 (ii) Education and outreach activities relative to the standards
28 specified in section 118 of this act;

29 (iii) Availability and performance of collection, transport, and
30 processing capacity and infrastructure relative to the management
31 standards specified in section 110 of this act and the approved
32 performance rates submitted by producer responsibility organizations,
33 including consideration of material quality and contamination;

34 (iv) Availability and performance of collection, transport, and
35 processing capacity and infrastructure to manage compostable covered
36 products, including consideration of the material quality and
37 contamination;

38 (v) Necessary capital investments to existing reuse and recycling
39 infrastructure; and

1 (vi) Infrastructure or other factors necessary to enable reuse of
2 covered products or the recycling of covered products not currently
3 recycled in the residential recycling system;

4 (b) Compile information related to actual costs incurred by
5 government entities, including entities of sparsely populated, remote
6 areas and dense urban areas, for curbside collection services, drop-
7 off collection services, and other information relevant to the
8 funding requirements for producer responsibility organizations in
9 accordance with section 112 of this act, including costs for various
10 service methods recommended by producer responsibility organizations
11 during the study scoping process;

12 (c) Identify cost factors and other variables to be considered in
13 the development of base cost formulas for establishing per unit
14 reimbursement rates to government entities for curbside collection
15 services delivered in accordance with this chapter. Cost factors and
16 variables to be considered in the base cost formulas include:

17 (i) Population size and density of a local jurisdiction;
18 (ii) Types of households serviced and collection method used;
19 (iii) Distance from a local jurisdiction to the nearest recycling
20 facility;

21 (iv) Whether a jurisdiction pays for transportation and sorting
22 of collected materials and whether it receives recycled commodity
23 material revenue from processed materials;

24 (v) Geographic location or other variables contributing to
25 regional differences in costs, including sparsely populated, remote
26 areas and dense urban areas;

27 (vi) Cost increases over time; and

28 (vii) Any other factors, recycled commodity material revenue, as
29 determined to be necessary by the department, with input from
30 producer responsibility organizations, the advisory council, and the
31 utilities and transportation commission;

32 (d) Identify cost factors, recycled commodity material revenue,
33 and other variables to be considered in the development of
34 reimbursement rates to government entities for any services other
35 than curbside collection that may be included in producer
36 responsibility organization plans to be carried out by government
37 entities;

38 (e) Identify issues to be considered in the development of a
39 service agreement template outlining terms and conditions for

1 reimbursement to government entities for services delivered in
2 accordance with the requirements of this chapter;

3 (f) Compile relevant information to be considered in the
4 development of criteria by the department to determine whether a
5 covered product is recyclable, reusable, or compostable. The
6 department may adopt rules establishing criteria for the
7 determination of whether a covered product is recyclable, reusable,
8 or compostable. The relevant information to be compiled may include
9 whether covered product materials are:

10 (i) Or may be, collected, separated, and processed in sufficient
11 quantity and quality into a marketable feedstock that can be used in
12 the production of new products; or

13 (ii) Designed in a way that is problematic for reuse, recycling,
14 or composting;

15 (g) Evaluate how the state's recycling system can be managed in a
16 socially just manner for the purpose of informing how each producer
17 responsibility organization implementing a plan can support this
18 objective as it relates to activities required under this chapter.
19 The assessment must:

20 (i) Include meaningful consultation with overburdened communities
21 and vulnerable populations;

22 (ii) Determine conditions and make recommendations including, at
23 minimum:

24 (A) An evaluation of recycling processing facility worker
25 conditions, wages, and benefits;

26 (B) The availability of opportunities in the recycling system for
27 women and minority individuals;

28 (C) The sufficiency of local government requirements related to
29 multifamily recycling services and their implementation;

30 (D) Identification of activities that disproportionately impact
31 any community and in particular overburdened communities and
32 vulnerable populations;

33 (E) The sufficiency of recycling education and outreach programs
34 relative to desired socially just management outcomes; and

35 (F) Recommendations for improving socially just management
36 practices and outcomes in the state's recycling system, including
37 considerations for how a producer responsibility organization
38 implementing a plan can support this objective as it relates to
39 activities required under this chapter;

1 (h) Evaluate the extent to which covered products contribute to
2 litter and marine debris for the purpose of informing how a producer
3 responsibility organization implementing a plan can support litter
4 and marine debris prevention as it relates to activities required
5 under this chapter. The assessment should draw on available data,
6 assess gaps, and identify strategies for improving prevention and
7 cleanup of litter and marine debris from covered products;

8 (i) Compile information from available data sources on the
9 presence of toxic substances in covered products and their potential
10 impacts on reuse, recycling, and composting systems. The information
11 compiled is intended to inform the development of eco-modulation
12 factors by a producer responsibility organization that incentivize
13 the reduction of toxic substances that have potentially negative
14 impacts when covered products are managed through reuse, recycling,
15 and home and commercial composting systems.

16 (6)(a) In consultation with the advisory council, the utilities
17 and transportation commission, and registered producer responsibility
18 organizations, the department may update the statewide needs
19 assessment to inform the development of producer responsibility
20 organization plans, including updates to base cost formulas to be
21 used for establishing reimbursement rates to government entities for
22 services delivered in accordance with the requirements of this
23 chapter. Any updates must include an evaluation of public place
24 recycling needs prior to the department considering a requirement, by
25 rule, for public place recycling funding activities under section
26 104(8) of this act.

27 (b) The scope of a needs assessment or needs assessment update
28 may be adjusted to modify or omit study elements described under
29 subsection (3) of this section, after consultation with the advisory
30 council, the utilities and transportation commission, and any
31 producer responsibility organization by January 15th of the year in
32 which the statewide needs assessment update is to be conducted.

33 (c) The scope of a needs assessment update may include an
34 analysis of the plastic resin market including:

35 (i) Analyzing market conditions and opportunities in the state's
36 recycling industry for meeting the minimum postconsumer recycled
37 content requirements for covered products identified in chapter
38 70A.--- RCW (the new chapter created in section 602 of this act); and

1 (ii) Determining the data needs and tracking opportunities to
2 increase the transparency and support of a more effective, fact-based
3 public understanding of the recycling industry.

4 (d) A needs assessment performed prior to January 1, 2029, that
5 includes an analysis of the plastic resin market as described in (c)
6 of this subsection is sufficient to satisfy the requirements of RCW
7 70A.245.060.

8 NEW SECTION. **Sec. 106.** PLAN PARTICIPATION OBLIGATION—
9 STAKEHOLDER CONSULTATION FOR PLAN. (1) Each producer of covered
10 products must participate in, implement, and fund a producer
11 responsibility organization plan approved by the department,
12 consistent with the timelines established in sections 103 and 108 of
13 this act, and in accordance with the funding requirements established
14 in section 112 of this act.

15 (2) A producer responsibility organization that is registered
16 with the department must develop and maintain a public website with
17 enhanced language access informing the public of plan implementation
18 details, including collection services and locations for each type of
19 covered product, and a current list of all member producers and
20 brands of covered products participating in the plan.

21 (3) Prior to submitting a new, updated, or revised plan to the
22 department, a producer responsibility organization must conduct a
23 consultation process to directly and actively involve stakeholders in
24 development of key plan elements established in section 107 of this
25 act. The producer responsibility organization, through the
26 consultation process, must solicit and respond to input and
27 recommendations from the advisory council established in section 120
28 of this act, the utilities and transportation commission, and other
29 stakeholders. The consultation process required in advance of the
30 submission of a plan to the department is in addition to the
31 department-led public comment process specified in section 104(4) of
32 this act. At a minimum, the consultation process must include:

33 (a) Opportunities for all stakeholders, including the advisory
34 council, the utilities and transportation commission, and members of
35 the public to provide comment on the plan for no less than 30 days
36 prior to its submission to the department; and

37 (b) Documentation of all comments received from the advisory
38 council and other stakeholders, and summary of responses provided by
39 the producer responsibility organization for purposes of a

1 stakeholder consultation report to be included with the submission of
2 a plan to the department. The stakeholder consultation report must
3 also describe each forum in which comments or input was received and
4 how it was addressed in the plan.

5 NEW SECTION. **Sec. 107.** PLAN CONTENTS—OVERVIEW. All plans and
6 plan updates must contain the following information:

7 (1) Identification of the governing board members of the producer
8 responsibility organization;

9 (2) A list and explanation of the covered products supplied or
10 sold in or into Washington by each member producer and their brands
11 of covered products participating in the plan;

12 (3) A description of the structure of the fees owed by producers
13 to be used to implement the plan, including the eco-modulation of
14 fees consistent with section 112 of this act;

15 (4) How the producer responsibility organization will encourage
16 and incentivize waste prevention and reduction of consumer packaging
17 and paper products and their associated climate impacts;

18 (5) How the producer responsibility organization will encourage
19 and incentivize redesign of covered products to be reusable,
20 recyclable, or compostable. Nothing in this chapter requires any
21 individual producer to redesign covered products to reduce waste or
22 to be reusable, recyclable, or compostable, or requires any
23 individual covered product to be reusable, recyclable, or
24 compostable;

25 (6) How the producer responsibility organization will use and
26 interact with recycling programs and infrastructure that predate the
27 implementation of the plan;

28 (7) How the producer responsibility organization will fund reuse
29 and recycling infrastructure and market development in Washington
30 state as described in section 117 of this act;

31 (8) How the program will maximize the efficiency of the system of
32 collecting and managing covered products through reuse and recycling;

33 (9) (a) A list of covered products designated for collection
34 statewide as required under section 113 of this act;

35 (b) The list required in (a) of this subsection must identify the
36 covered products designated for collection from residents statewide:

37 (i) Through curbside collection or, where curbside garbage
38 service is not available, through permanent collection facilities;

39 (ii) Through alternate collection; and

1 (iii) Through public place collection;

2 (c) If the list required in (a) of this subsection includes any
3 covered product that is not recyclable as defined in section 102 of
4 this act, the plan must provide a justification for its inclusion on
5 the list and describe activities to be undertaken to allow the
6 covered product to meet the definition of recyclable within a
7 reasonable time frame;

8 (10)(a) A list and description of any covered products that are
9 compostable and the collection systems and processing infrastructure
10 and other activities that will be used to ensure responsible
11 management of compostable covered products;

12 (b) A list and description of covered product reuse and refill
13 collection systems and processing infrastructure;

14 (11) Activities to be undertaken to make convenient collection
15 services available for covered products in accordance with the
16 convenience standards established under section 113 of this act
17 including, at minimum, the following information:

18 (a) The jurisdictions where curbside collection services are
19 available or are anticipated to be available upon the implementation
20 of a plan, including the following service details:

21 (i) Service provider information, including whether the service
22 provider is a government entity, a private service provider under
23 contract with a government entity, or a private service provider
24 regulated by the utilities and transportation commission; and

25 (ii) Service frequency, schedule, collection methods, types of
26 covered products included, and other pertinent service details,
27 including whether any changes are anticipated as part of plan
28 implementation;

29 (b) The locations of permanent collection facilities, the planned
30 hours in which free and equitable access will be provided, and the
31 types of covered products to be collected at each location, including
32 whether any changes are anticipated as part of plan implementation;

33 (c) The types of alternate collection used other than permanent
34 collection facilities, including detailed descriptions of the
35 collection methods, any physical infrastructure used, covered
36 products included, and whether any changes are anticipated as part of
37 plan implementation; and

38 (d) The locations of public place collection services, covered
39 products included, and whether any changes are anticipated as part of
40 plan implementation;

1 (12) Proposed performance rates for covered products reported as
2 supplied, as described in section 111 of this act, including a
3 description of the basis and reasoning for the rates proposed;

4 (13) Activities to be undertaken to meet the performance rates;

5 (14) Activities to be undertaken to implement the education and
6 outreach component as required under section 118 of this act;

7 (15) Activities to facilitate recycling of covered products back
8 into covered products and encourage development of circular economic
9 activity in the state and region. The producer responsibility
10 organization shall provide a description of how the producers would
11 propose to structure agreements to purchase recycled materials from
12 material recovery facilities or other processing facilities,
13 reclaimers, or other end markets to support producers' priority
14 access to commodities, based on fair market pricing for commodities
15 of comparable quality and considering long-term contracts and other
16 purchase arrangements;

17 (16) Activities to be undertaken to minimize the amount and cost
18 of residuals from the collection and processing of covered materials
19 designated for collection. These include residuals from materials
20 recovery facilities or similar facilities producing specification-
21 grade commodities for sale, but do not include residuals from further
22 processing of end market-ready material;

23 (17) Activities to be undertaken to develop or support
24 responsible end markets for covered products;

25 (18) A description of how plan implementation will maintain
26 responsible management practices for covered products through to
27 final disposition and ensure that any covered products collected for
28 recycling will be delivered to a responsible end market as reported
29 by material recovery facilities under section 110(5) of this act;

30 (19)(a) A description of the base cost formulas to be used to
31 calculate per unit reimbursement rates for curbside collection
32 services with similar attributes that are delivered by government
33 entities in accordance with the requirements of this chapter, whether
34 such services are provided directly or through a contracted service
35 provider. If a plan includes more than one base cost formula for
36 curbside collection services, the producer responsibility
37 organization must make clear the conditions under which each formula
38 will be applied;

1 (b) A description of the reimbursement rates to be used for any
2 services other than curbside collection included in the plan that are
3 to be carried out by government entities;

4 (c) A description of:

5 (i) How the per unit reimbursement rates cover all obligations
6 associated with curbside collection services specified in this
7 chapter and any other services included in the plan that are to be
8 delivered by government entities;

9 (ii) How reimbursements will be distributed;

10 (iii) Any terms or conditions covered in the service agreements
11 with government entities for receiving reimbursements, including any
12 service standards and reporting requirements; and

13 (iv) How the producer responsibility organization will work with
14 government entities and other stakeholders to achieve successful
15 implementation of the services for which the producer responsibility
16 organization provides reimbursement;

17 (d) A template of the service agreement and any other forms,
18 contracts, or other documents for use in distribution of
19 reimbursements to government entities and other stakeholders;

20 (e) A description of how the producer responsibility organization
21 will implement the program in a manner consistent with the
22 requirements of section 115 of this act;

23 (20) A description of the service standards for residential
24 curbside collection services provided in areas regulated by the
25 utilities and transportation commission under the provisions of
26 chapter 81.77 RCW;

27 (21) Activities to be undertaken to reduce contamination from
28 covered products at compost or other organic material management
29 facilities as defined in RCW 70A.205.015, including through
30 decontamination equipment improvements and conducting packaging
31 contamination composition studies;

32 (22) A stakeholder consultation report, as described in section
33 106(3)(b) of this act;

34 (23) A description of a third-party process to resolve disputes
35 for determining and paying the reasonable costs that arise between a
36 producer responsibility organization and a government entity or a
37 recycling service provider;

38 (24) A description of how the producer responsibility
39 organization will coordinate with other producer responsibility
40 organizations and any distributor responsibility organizations formed

1 under chapter 70A.--- RCW (the new chapter created in section 603 of
2 this act) in the state, in specific terms if more than one producer
3 responsibility organization or distributor responsibility
4 organization is registered with the department as of the date of a
5 plan's submission, and in general terms addressing coordination
6 priorities to ensure the smooth implementation of this chapter in the
7 event an additional plan or plans become registered with the
8 department during the period of plan implementation;

9 (25) A list of the material categories if distinguished or
10 additional to the material categories identified in section 102(18)
11 (a) through (g) of this act;

12 (26) The contingency plan described in section 109 of this act;
13 and

14 (27) Any other information to be included in the plan as required
15 by the department by rule.

16 NEW SECTION. **Sec. 108.** PLAN APPROVAL, UPDATES, AND REVISIONS.

17 (1)(a) The initial plan due to be submitted under section 103(5) of
18 this act, and updated plans, may address no more than five calendar
19 years.

20 (b) A producer responsibility organization must submit to the
21 department, one year prior to the expiration of any plan, an updated
22 plan for the following five calendar years of operation to address
23 changes in the operations and activities of the program. Updated
24 plans must be designed to begin from the date on which the existing
25 plan is expected to cease to be in effect.

26 (c) If the performance rates set in a producer responsibility
27 organization plan as described in section 111 of this act have not
28 been met as of the time of plan update, the producer responsibility
29 organization must arrange for an independent evaluation to be
30 conducted of the producer responsibility organization's efforts to
31 implement the plan approved by the department. The evaluation must
32 provide information for the producer responsibility organization to
33 use to target and improve program outcomes relative to the proposed
34 and approved performance rates.

35 (d) A producer responsibility organization must carry out the
36 consultation process established in section 106 of this act prior to
37 the submission of each plan and plan update. The consultation process
38 established in section 106 of this act is not required to be carried

1 out by a producer responsibility organization that is submitting a
2 revised plan:

3 (i) In response to an order from the department; or

4 (ii) Subsequent to a letter disapproving of a plan submission by
5 the producer responsibility organization and for which the original
6 plan submitted by the producer responsibility organization had been
7 subject to the consultation process required in section 106 of this
8 act.

9 (2)(a) A producer responsibility organization may choose to
10 update its plan if significant changes have occurred.

11 (b) The department may require a producer responsibility
12 organization to update its plan more frequently than every five years
13 if:

14 (i) The program and activities to implement the plan fail to
15 achieve the performance rates set in producer responsibility
16 organization plans as described in section 111 of this act or
17 otherwise fail to achieve significant requirements under this
18 chapter;

19 (ii) Additional producer responsibility organizations register
20 with the department or receive approval from the department to begin
21 implementing a plan; or

22 (iii) There are significant changes to the regulatory or economic
23 environment in which plan activities are being carried out.

24 NEW SECTION. **Sec. 109.** CONTINGENCY PLAN. (1) A producer
25 responsibility organization must submit to the department a
26 comprehensive contingency plan demonstrating how the activities in
27 the plan will continue to be carried out by some other entity, if
28 needed, such as an escrow company:

29 (a) Until such time as a new plan is submitted and approved by
30 the department;

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

32 (c) In the event that the producer responsibility organization
33 has been notified by the department that they must transfer
34 implementation responsibility for the program to a different producer
35 responsibility organization;

36 (d) In the event that the producer responsibility organization
37 notifies the department that it will cease to implement an approved
38 plan; or

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

3 (2) The contingency plan required in this section must be
4 submitted to the department as a component of the producer
5 responsibility organization's initial plan submitted to the
6 department under section 103(5) of this act. The department may
7 require a producer responsibility organization to update the
8 contingency plan required under this section coincident with any plan
9 update under section 108 of this act.

10 (3) The department must follow the same process and timelines for
11 reviewing and approving the contingency plan as it follows for
12 reviewing and approving the producer responsibility organization's
13 program plan under section 108 of this act.

14 NEW SECTION. **Sec. 110.** COLLECTION AND MANAGEMENT. (1) Producer
15 responsibility organizations, government entities, and service
16 providers implementing the program must manage covered products in a
17 manner consistent with the state's solid waste management hierarchy
18 established in RCW 70A.205.005.

19 (2) Covered products collected by the program must be responsibly
20 managed at facilities operating with human health and environmental
21 protection standards that are broadly equivalent to or better than
22 those required in the United States and other countries that are
23 members of the organization for economic cooperation and development.

24 (3) Producer responsibility organizations implementing a plan
25 must include measures to:

26 (a) Track, verify, and publicly report that the responsible
27 management of covered products collected by the program is maintained
28 and that recycled materials are delivered to a responsible end
29 market;

30 (b) Promote and facilitate reuse of covered products designed to
31 be reused;

32 (c) Meet the necessary quality standards for recycled materials
33 so that covered products collected by the program may be used to
34 manufacture new products;

35 (d)(i) Document the locations of all material recovery facilities
36 and other processing facilities used to meet the requirements of this
37 chapter, whether within Washington, elsewhere in North America, or
38 outside of North America; and

1 (ii) Describe whether the processing facilities were preexisting,
2 planned, or under construction as of plan approval.

3 (4) (a) Prior to program use of any alternative recycling process
4 for conversion of postuse plastic polymers for the purpose of
5 producing recycled material to be counted toward performance rates
6 under this chapter, the producer responsibility organization must
7 seek the department's approval and submit a third-party assessment of
8 the process's environmental impacts, as described under this
9 subsection. In order for an alternative recycling process to be
10 approved, the department must determine, after considering public
11 comment and input from the advisory council, that the alternative
12 recycling process produces similar or lesser impacts than those
13 produced in recycling that uses purely mechanical means for each of
14 the following environmental impacts:

15 (i) Air and water pollution and release or creation of any
16 hazardous pollutants;

17 (ii) Energy efficiency and greenhouse gas emissions;

18 (iii) Generation of hazardous waste;

19 (iv) Environmental impacts on overburdened communities and
20 vulnerable populations;

21 (v) Water usage including, but not limited to, impacts to local
22 water resources and sewage infrastructure; and

23 (vi) Other environmental impacts as determined by the department
24 by rule.

25 (b) The results of the assessment under (a) of this subsection
26 must, whenever reported and communicated, provide full disclosure of
27 geographical, temporal, and technological boundaries that have been
28 selected for the assessment.

29 (c) The person preparing the assessment under (a) of this
30 subsection may not be interested, directly or indirectly, in the
31 ownership or operation of any recycling facility proposed to conduct
32 the alternative recycling process under assessment.

33 (5) (a) Material recovery facilities and other processing
34 facilities receiving covered products from government entities or
35 private service providers collected through activities undertaken in
36 accordance with this chapter must measure and report annually to the
37 department by commodity type and material category, in a form and
38 format approved by the department, on the following parameters
39 associated with covered products and qualifying beverage containers

1 subject to the provisions of chapter 70A.--- RCW (the new chapter
2 created in section 603 of this act) received and processed:

3 (i) Tons received, by jurisdiction and service provider;

4 (ii) Inbound material quality and contamination;

5 (iii) Outbound material quality and contamination;

6 (iv) Outbound material tons and end markets by commodity type,
7 including whether the end markets are domestic, export to
8 organization for economic cooperation and development countries, or
9 export to facilities in other countries that meet organization for
10 economic cooperation and development operating standards;

11 (v) Management of contaminants and residue to avoid impacts on
12 other waste streams or facilities;

13 (vi) Residuals, including residue rate, composition, and disposal
14 location;

15 (vii) Emission of pollutants to air and water, or other
16 activities that impact public health or the environment, including
17 any reporting required under existing permits where applicable; and

18 (viii) Labor metrics including, but not limited to, wages,
19 unions, and workforce demographics.

20 (b) All data reported to the department by material recovery
21 facilities and other processing facilities under this subsection must
22 be verified by an independent third party and shared with each
23 producer responsibility organization for which the material recovery
24 facility provides a service.

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

31 (6) To facilitate recycling of covered products back into covered
32 products and encourage development of circular economic activity in
33 the state and region, material recovery facilities and other
34 processing facilities handling materials under the program shall
35 prioritize agreements with and on behalf of producers or producer
36 responsibility organizations regarding long-term contracts and other
37 purchase agreements based on fair market pricing for commodities of
38 comparable quality.

1 NEW SECTION. **Sec. 111.** PERFORMANCE RATES. (1) By January 1,
2 2025, any registered producer responsibility organization must submit
3 to the department proposed performance rates for covered products
4 reported by the producer responsibility organization as supplied into
5 the state to be achieved by the ninth calendar year from the
6 effective date of this section. In proposing rates, the producer
7 responsibility organization must:

8 (a) Consider the rates recommended in the performance rates
9 study;

10 (b) Propose, at minimum:

11 (i) An overall combined reuse and recycling rate of covered
12 products;

13 (ii) A separate specific minimum reuse rate, that must also be
14 counted within the overall combined reuse and recycling rate; and

15 (iii) A source reduction rate to be achieved solely by
16 eliminating plastic components;

17 (c) Provide a justification for the rates proposed, if they are
18 different from those recommended in the performance rates study; and

19 (d) Adhere to the performance rate calculation methodology
20 established in subsections (3), (4), and (5) of this section.

21 (2) Any producer responsibility organization plan submitted to
22 the department must include rates for covered products reported by
23 the producer responsibility organization as supplied into the state,
24 taking into account the findings of the performance rates study,
25 statewide needs assessment, and additional relevant data. The rates
26 submitted by a producer responsibility organization must be achieved
27 by the end of the plan implementation period.

28 (a) At minimum, the plan must include:

29 (i) An overall combined reuse and recycling rate of covered
30 products;

31 (ii) A separate minimum reuse rate of covered products, which is
32 also to be counted within the overall combined reuse and recycling
33 rate;

34 (iii) A combined reuse and recycling rate for each material
35 category of covered products reported by the producer responsibility
36 organization as supplied into the state; and

37 (iv) A source reduction rate to be achieved solely by eliminating
38 plastic components.

39 (b) Proposed rates must demonstrate continuous improvement in
40 performance rates of covered products over time.

1 (c) Proposed rates must adhere to the performance rate
2 calculation methodology established in subsections (3), (4), and (5)
3 of this section.

4 (d) Any plan submitted to the department prior to the ninth
5 calendar year from the effective date of this section must also
6 include performance rates to be achieved by the ninth calendar year
7 from the effective date of this section. If the rates differ from
8 those previously approved by the department as required under
9 subsection (1) of this section, the producer responsibility
10 organization must provide a justification for the proposed
11 adjustment.

12 (3) For the purposes of this chapter, the department must adopt
13 rules for measuring the performance rates of each material category
14 of covered products included in a producer responsibility
15 organization plan.

16 (4) To be included in a performance rate calculation for purposes
17 of this chapter, recycled materials must be transferred to a
18 responsible end market.

19 (5) For purposes of calculations of reuse and elimination under
20 this section, a producer responsibility organization must include
21 both the weight and number of units.

22 NEW SECTION. **Sec. 112.** FUNDING REQUIREMENTS. (1) A producer
23 responsibility organization implementing a plan must fully fund all
24 activities required under this chapter.

25 (2) A nonreimbursable point-of-sale fee may not be charged to
26 consumers to recoup the costs of meeting producer obligations under
27 this chapter.

28 (3)(a) A producer responsibility organization must develop a
29 system to collect fees from participating producers to cover the
30 costs of plan implementation. To minimize the administrative and
31 reporting costs of the producers and the organization, the fee system
32 must include:

33 (i) A de minimis level in which no fees are charged by the
34 producer responsibility organization, determined by weight of covered
35 products sold into the state;

36 (ii) Additional charges applied specifically to producers of
37 postconsumer recycled content products covered by the requirements of
38 chapter 70A.--- RCW (the new chapter created in section 602 of this
39 act), in an amount roughly equivalent to fully cover the producer

1 responsibility organization's costs of implementing its duties under
2 chapter 70A.--- RCW (the new chapter created in section 602 of this
3 act), including funding the oversight of the department; and

4 (iii) An optional flat rate for producers below a certain size.

5 (b) A producer responsibility organization shall allow producers
6 of covered products that are magazines to satisfy their obligations
7 under this section by providing advertisement or publication
8 supporting the education and outreach activities required under
9 section 118 of this act in their magazines, or on their websites in
10 lieu of program fees as long as the value of the advertisement is
11 equivalent to the estimated cost of managing the covered products
12 that are magazines, which are to be determined as described in
13 subsection (4) of this section. The producer responsibility
14 organization may consider the in-state reach of the advertising when
15 determining the value of the advertising.

16 (4) A producer responsibility organization must base the system
17 of fees assessed to producers upon the estimated cost of managing the
18 material categories of covered products, while seeking to avoid a
19 material category that subsidizes any other material category. In
20 establishing a system of fees, a producer responsibility organization
21 must consider the following factors:

22 (a) The total annual amount of covered products sold or supplied
23 into the state, by material category, whether or not the material is
24 currently recyclable or designated for collection for recycling;

25 (b) The material characteristics and the costs associated with
26 the management of each material category; and

27 (c) The commodity value of each material category as a recycled
28 material.

29 (5)(a) The fee system must use eco-modulation factors to
30 incentivize the use of packaging design attributes that reduce the
31 environmental impacts of covered products. Examples of activities
32 that a fee system may include to satisfy the requirement to use eco-
33 modulation factors include, but are not limited to:

34 (i) Encourage designs that facilitate and improve infrastructure
35 and systems for reuse, recycling, and home and industrial composting,
36 and that achieve reuse, recycling, and home and industrial
37 composting;

38 (ii) Encourage the use of postconsumer recycled content;

39 (iii) Encourage designs that reduce the amount of packaging
40 material used;

1 (iv) Discourage the use of problematic or difficult to recycle
2 materials that increase system costs of managing covered products;
3 and

4 (v) Encourage other design attributes that reduce the
5 environmental impacts of covered products.

6 (b) Any system of program fees under this section that includes
7 discounted fees or favorable treatment of covered products deemed to
8 be reusable must establish a basis for determining that products, in
9 practice, are designed and supported by adequate infrastructure to
10 ensure they are reused multiple times as part of a system of reuse.

11 (c) Fees collected under this fee system must be used exclusively
12 for plan implementation and other activities required under this
13 chapter and chapter 70A.--- RCW (the new chapter created in section
14 602 of this act).

15 (6) If more than one producer responsibility organization is
16 registered within the state, each producer responsibility
17 organization must coordinate with other producer responsibility
18 organizations to provide reimbursement and ensure that government
19 entities and service providers are reimbursed for recycling services
20 as required under this chapter, and to ensure that covered products
21 are not reported as supplied or managed by more than one producer
22 responsibility organization.

23 NEW SECTION. **Sec. 113.** CONVENIENCE STANDARDS. (1) In every
24 jurisdiction in which covered products are sold or supplied to
25 consumers, a producer responsibility organization must fund
26 activities to make convenient collection services available for the
27 full list of covered products designated for collection in the plan.
28 Convenient collection services must be available to residents as
29 follows:

30 (a) Curbside collection must be provided to residents in single-
31 family and multifamily residences wherever curbside garbage
32 collection services are provided to these entities, except in areas
33 where a county has adopted an ordinance after the effective date of
34 this section that designates that covered products must be collected
35 exclusively through alternate collection, and except for covered
36 products designated for alternate collection under a producer
37 responsibility organization plan.

38 (b) (i) In jurisdictions without curbside garbage collection, and
39 in all areas for covered products designated for alternate

1 collection, free and equitable access to permanent collection
2 facilities must be provided that are located, at minimum, at:

3 (A) Each solid waste transfer, processing, or disposal site, or
4 other drop-off location, or a location demonstrated to the department
5 to be of equal convenience, as it existed prior to the effective date
6 of this section; and

7 (B) Additional drop-off locations or collection events in
8 communities that are not covered by a collection location described
9 in (b) (i) (A) of this subsection. A producer responsibility
10 organization, after soliciting and accommodating input from the
11 department, the relevant government entity, and the local community,
12 must determine a reasonable number and location of additional drop-
13 off locations or frequency and location of collection events to be
14 held in underserved areas. A producer responsibility organization
15 must give special consideration for providing opportunities to island
16 and geographically isolated populations.

17 (ii) A retail establishment may choose to serve as a drop-off
18 location or as the site of a collection event, or both, through
19 mutual agreement with a producer responsibility organization, but
20 nothing in this chapter requires a retail establishment to serve as a
21 drop-off location or site of a collection event.

22 (c) For the duration of the initial plan implementation term,
23 collection must be provided in public places:

24 (i) Any location where government entities provided and managed
25 recycling collection receptacles as of July 1, 2023. The number and
26 location of receptacles may be adjusted to optimize collection based
27 on mutual agreement between the producer responsibility organization
28 and the government entity providing the service; and

29 (ii) At additional locations as determined by the producer
30 responsibility organization, after considering the recommendations of
31 the statewide needs assessment in section 105 of this act and
32 stakeholder consultation in section 106 of this act. Collection in
33 additional locations is subject to mutual agreement by the producer
34 responsibility organization and the government entity or other entity
35 responsible for the public place.

36 (2) In any jurisdiction where collection of source separated
37 recyclable materials from residences is provided by a city or town
38 under the authority of RCW 35.21.120, by a county under the authority
39 of RCW 36.58.040, or by a company that holds an applicable
40 certificate under the authority of chapter 81.77 RCW, a producer

1 responsibility organization must meet its curbside collection service
2 obligation through the curbside collection service in the
3 jurisdiction as described in section 114 of this act.

4 (3) (a) A producer responsibility organization must, in its plan,
5 establish a statewide list of covered products designated for
6 collection.

7 (b) If more than one producer responsibility organization is
8 registered with the department, each producer responsibility
9 organization must coordinate with other producer responsibility
10 organizations to establish and annually update in a coordinated
11 submission to the department the statewide list of covered products
12 designated for collection.

13 (4) Every producer responsibility organization must identify in
14 its plan and on its website, in appropriate languages, maps of each
15 area where curbside and alternative collection services for covered
16 products are available, a list and map of the location of each
17 permanent collection opportunity for covered products, the types and
18 a list and map of locations of alternate collection methods used, and
19 a list and map of the locations of public place collection services
20 for covered products.

21 NEW SECTION. **Sec. 114.** GOVERNMENT ENTITIES—AUTHORITY TO COLLECT
22 COVERED PRODUCTS. (1) The provisions of this chapter do not:

23 (a) Obligate a county, city, or town that utilizes its contract
24 authority under RCW 35.21.120 or 36.58.040 for collection of source
25 separated recyclable materials from residents or a city or town that
26 undertakes collection of source separated recyclable materials from
27 residents to participate in a plan implemented by a producer
28 responsibility organization;

29 (b) Restrict the authority of a city under RCW 35.21.120,
30 35.21.130, and 35.21.152; or

31 (c) Restrict the authority of a county under RCW 36.58.040.

32 (2) (a) A city, town, county, or other government entity may enter
33 into contractual agreements with a producer responsibility
34 organization or organizations for the purposes of reimbursement of
35 costs of services provided in accordance with the requirements of
36 this chapter.

37 (b) A producer responsibility organization must reimburse the
38 government entity for services delivered in accordance with the
39 requirements of this chapter as described in section 115 of this act.

1 (c) A government entity is not restricted from including
2 additional materials in curbside or noncurbside collection that are
3 not part of the statewide list of covered products designated for
4 collection, but a producer responsibility organization is not
5 obligated to reimburse costs associated with the additional
6 materials.

7 (3) Consistent with RCW 81.77.020, where a city or town chooses
8 not to exercise its authority under chapter 35.21 RCW, or a county
9 chooses not to exercise its authority under chapter 36.58 RCW,
10 curbside collection of covered products designated for collection as
11 source separated recyclable materials from residences in areas
12 regulated by the utilities and transportation commission under the
13 provisions of chapter 81.77 RCW must be provided by a company that
14 holds an applicable certificate issued by the utilities and
15 transportation commission.

16 (4) A county may, by ordinance, direct that covered products
17 designated for collection by a producer responsibility organization
18 plan be collected exclusively through alternate collection in areas
19 regulated by the utilities and transportation commission under the
20 provisions of chapter 81.77 RCW if the area was designated as rural
21 in the county solid waste management plan and no curbside recycling
22 collection service was offered within those areas as of the effective
23 date of this section.

24 (5) Government entities are not obligated to provide resident
25 education and outreach under this chapter but may carry out or
26 contract for resident education and outreach consistent with producer
27 responsibility organization plan provisions under section 118 of this
28 act and be reimbursed for the costs of education and outreach
29 performed by the government entity as described in section 115 of
30 this act.

31 (6) A city, town, or county may not enact an ordinance requiring
32 producers of covered products to provide residential recycling
33 services for covered products that are additional to the requirements
34 of this chapter unless producers are not required to fully fund the
35 requirements of this chapter under section 112 of this act.

36 NEW SECTION. **Sec. 115.** COST REIMBURSEMENT FOR SERVICES PROVIDED
37 BY GOVERNMENT ENTITIES. (1) A producer responsibility organization
38 with covered products designated for curbside collection under its
39 plan must provide reimbursement to a government entity that chooses

1 to seek reimbursement for costs incurred in delivering curbside
2 collection services, whether these services are provided directly or
3 through a contracted service provider, or both. Costs that must be
4 reimbursed by a producer responsibility organization include, as
5 applicable, any administrative, public education, collection,
6 transportation, and sorting or processing costs incurred in
7 delivering curbside collection services in accordance with the
8 requirements of this chapter. Reimbursements for curbside collection
9 services must be calculated using base cost formulas established in
10 the producer responsibility organization plan approved by the
11 department.

12 (2) If a producer responsibility organization elects to use the
13 services of a government entity for any services included in the
14 producer responsibility organization plan other than curbside
15 collection services, it must provide reimbursement to the government
16 entity. Reimbursement for any services other than curbside collection
17 services may be calculated using reimbursement rates established for
18 noncurbside collection services in the producer responsibility
19 organization plan approved by the department.

20 (3) Any government entity that receives reimbursement for costs
21 incurred in delivering curbside collection services must report or
22 publish reimbursed costs to its residents annually and as part of
23 each rate increase notification required under RCW 35.21.157.

24 NEW SECTION. **Sec. 116.** COST REIMBURSEMENT FOR SERVICES
25 REGULATED BY THE UTILITIES AND TRANSPORTATION COMMISSION. In areas
26 where collection of source separated recyclable materials from
27 residences is regulated by the utilities and transportation
28 commission under chapter 81.77 RCW, a producer responsibility
29 organization must provide reimbursement to the company granted a
30 certificate to provide the service in accordance with the rates
31 approved by the commission, including all associated taxes and fees
32 that would be otherwise charged to residential customers directly or
33 indirectly for recycling service. To be eligible for reimbursement
34 from a producer responsibility organization under this section, the
35 company granted a certificate must provide service that:

- 36 (1) Is offered to residents in single-family and multifamily
37 residences wherever curbside garbage collection services are offered;
38 (2) Includes collection of all covered products designated for
39 curbside collection;

1 (3) Aligns with service standards for curbside collection
2 established by the producer responsibility organization plan under
3 section 107 of this act; and

4 (4) Is provided in a manner consistent with the requirements of
5 this chapter for curbside collection services.

6 NEW SECTION. **Sec. 117.** INFRASTRUCTURE INVESTMENTS. (1) Each
7 producer responsibility organization must fund and support
8 investments in infrastructure and market development in Washington
9 state as needed to achieve the convenience standards specified in
10 section 113 of this act, the management standards specified in
11 section 110 of this act, the performance rates set in producer
12 responsibility organization plans as described in section 111 of this
13 act, or to address infrastructure gaps, as identified through the
14 statewide needs assessment under section 105 of this act and through
15 the consultation process under section 106 of this act. Investments
16 in infrastructure and market development may include, but are not
17 limited to, those needed to enable reuse of covered products or the
18 recycling or composting of covered products not currently recycled or
19 composted in the residential recycling system, such as:

20 (a) Installing or upgrading equipment to improve sorting of
21 covered products or mitigating the impacts of covered products to
22 other commodities at existing sorting and processing facilities; and

23 (b) Capital expenditures for new technology, equipment, and
24 facilities.

25 (2) Investments must be detailed in the annual report submitted
26 to the department in the manner specified in section 119 of this act.
27 In meeting the requirements of this section, a producer
28 responsibility organization must prioritize investments in
29 preexisting infrastructure within Washington state. If a producer
30 responsibility organization did not invest in preexisting
31 infrastructure within Washington state, the annual report must
32 include a statement of the reasons why no such investment was made.

33 NEW SECTION. **Sec. 118.** EDUCATION AND OUTREACH. (1) Each plan
34 implemented by a producer responsibility organization under this
35 chapter must include education and outreach activities that
36 effectively reach diverse residents, are accessible, are clear, and
37 support the achievement of the performance rates set in producer
38 responsibility organization plans as described in section 111 of this

1 act. To implement the education and outreach activities described in
2 the plan, a producer responsibility organization must, at minimum:

3 (a) Develop and provide outreach and educational materials,
4 resources, and campaigns about the program to be used by retail
5 establishments, collectors, government entities, and nonprofit
6 organizations. The materials, resources, and campaigns developed
7 under this section must encourage participation in recycling
8 collection and reuse and refill systems and must achieve:

9 (i) Education and engagement with residents on recycling, reuse,
10 and refill behaviors;

11 (ii) Outreach to obtain consistently high levels of public
12 participation in and use of collection services and reuse and refill
13 systems, including where and how to recycle covered products
14 designated for collection, or return or refill reusable covered
15 products; and

16 (iii) Education and engagement to reduce the rate of inbound
17 contamination or unwanted materials;

18 (b) Coordinate and fund the distribution and deployment of
19 statewide promotional campaigns developed under this section through
20 media channels that may include, but are not limited to, print
21 publications, radio, television, the internet, and online streaming
22 services;

23 (c) Use consistent and easy to understand messaging and education
24 statewide, with the aim of reducing resident confusion regarding the
25 recyclability, reuse, compostability, and end-of-life management
26 options available for different covered products;

27 (d) Be conceptually, linguistically, and culturally accurate for
28 the communities served and tailored to effectively reach the state's
29 diverse populations, including through meaningful consultation with
30 overburdened communities and vulnerable populations;

31 (e) Establish a process for answering customer questions and
32 resolving customer concerns; and

33 (f) Evaluate the effectiveness of education and outreach efforts
34 for the purposes of making progress toward performance requirements
35 established in this chapter.

36 (2)(a) A producer responsibility organization must coordinate
37 with government entities that choose to participate in carrying out
38 resident education and outreach in accordance with the approach
39 specified in the producer responsibility organization's plan.

1 (b) All producer responsibility organizations implementing a plan
2 approved by the department must collaborate to present a consistent
3 statewide program to ensure that all state residents can easily
4 identify, understand, and access services provided by any approved
5 producer responsibility organization. The department may require
6 producer responsibility organizations to coordinate and use
7 consistent signage and consistent messaging in education and outreach
8 activities under this section.

9 NEW SECTION. **Sec. 119.** ANNUAL REPORTING ON ACTIVITIES. (1)
10 Beginning July 1, 2028, and each July 1st thereafter, each producer
11 responsibility organization must submit an annual report to the
12 department for the preceding calendar year of plan implementation.
13 Each annual report must include data, descriptions, and other
14 information sufficient to allow the department to determine whether a
15 producer responsibility organization has fulfilled its obligations
16 under this chapter during the preceding calendar year, including
17 actions identified by the producer responsibility organization to be
18 undertaken as part of the plan submitted under section 107 of this
19 act, and actions to implement the requirements and other provisions
20 of this chapter including, but not limited to, sections 110 through
21 118 of this act.

22 (2) In addition to the data, descriptions, and information
23 specified in subsection (1) of this section, each annual report must
24 include the following:

25 (a) Identification of the governing board members of the producer
26 responsibility organization;

27 (b) The final destinations of recycled material managed by the
28 program as reported by material recovery facilities under section
29 110(5) of this act, including:

30 (i) Names and locations of end users or reprocessors that
31 received recycled material managed by the program, by material
32 category; and

33 (ii) Descriptions of material categories managed by the program
34 that were sold or supplied to the end users or reprocessors; and

35 (c) The total cost of implementing the plan approved by the
36 department, as determined by an independent financial audit and
37 performed by an independent auditor, including:

38 (i) Information regarding the independently audited financial
39 statements detailing all payments received and issued by the producer

1 responsibility organization covered by the plan approved by the
2 department;

3 (ii) A copy of the independent audit; and

4 (iii) A detailed description of how the program compensates
5 government entities, private collection and transportation service
6 providers, sorting and processing facilities, and other approved
7 entities for services under chapters 70A.--- (the new chapter created
8 in section 601 of this act), 70A.--- (the new chapter created in
9 section 602 of this act), and 70A.--- RCW (the new chapter created in
10 section 603 of this act).

11 (3)(a) Prior to the submission of the annual report, all
12 nonfinancial data and information that is material to the
13 department's review of the program's compliance with the requirements
14 of this chapter must be audited annually by a third party that is a
15 nationally recognized, independent laboratory or certification body
16 that has received ISO/IEC 17065 accreditation as it existed as of
17 January 1, 2023, or a similar accreditation as determined by the
18 department.

19 (b) Annual independent auditing and verification must:

20 (i) Include documentation of the performance rate calculations;
21 and

22 (ii) Encompass the management of materials from the point of
23 collection through processing and sale of recycled materials to
24 responsible end markets.

25 NEW SECTION. **Sec. 120.** ADVISORY COUNCIL. (1) The advisory
26 council is established.

27 (2) The advisory council consists of members appointed by the
28 department as follows:

29 (a) Four representatives of local governments representing
30 geographic areas across the state, including two representatives of
31 counties and two representatives of cities, each with one
32 representative of urban communities and one representative of rural
33 communities;

34 (b) One representative of tribal or indigenous solid waste
35 services organizations;

36 (c) One representative of special purpose districts involved in
37 activities related to the end-of-life management of solid waste;

1 (d) Two representatives of community-based organizations whose
2 mission is to serve the interests of overburdened communities and
3 vulnerable populations;

4 (e) Two representatives of environmental nonprofit organizations;

5 (f) One owner or operator of a small business that is not
6 eligible for representation under (g), (h), or (i) of this
7 subsection;

8 (g) Six representatives of the recycling industry, including
9 local governments' service providers, solid waste collection
10 companies or associations, material recovery facilities, or other
11 processing facilities;

12 (h) Three representatives of producers of covered products or
13 producer trade associations representing different types of covered
14 products. A member appointed to the council under this subsection may
15 not be a representative or a member of the board of directors of a
16 producer responsibility organization registered with the department
17 under section 103 of this act;

18 (i) Two representatives of packaging suppliers that are not
19 producers as defined under this chapter representing different
20 material categories; and

21 (j) One representative of a retail establishment.

22 (3) Advisory councilmembers must be appointed by the director of
23 the department by January 1, 2024. In appointing members, the
24 department shall:

25 (a) Appoint members that, to the greatest extent practicable,
26 represent diversity in race, ethnicity, age, and gender, urban and
27 rural areas, and different regions of the state;

28 (b) Consider recommendations for appointments from relevant
29 represented groups or associations and from individuals interested in
30 participating on the advisory council.

31 (4) (a) The terms of initial appointments must be staggered to two
32 and three-year appointments, with subsequent terms of three years.
33 Members are eligible for reappointment.

34 (b) If there is a vacancy for any reason, the department shall
35 make an appointment to become effective immediately for the unexpired
36 term.

37 (5) (a) The advisory council shall elect one of its members to
38 serve as chairperson and another to serve as vice chairperson, for
39 the terms and with the duties and powers necessary for the
40 performance of the functions of such offices as the advisory council

1 determines. The chairperson and vice chairperson may not both be
2 members appointed under the same subsection of subsection (2)(a)
3 through (i) of this section.

4 (b) The advisory council may adopt bylaws and a charter for the
5 operation of its business for the purposes of this chapter.

6 (6) The advisory council shall meet at least once every three
7 months for the first three years, at times and places specified by
8 the chairperson. The advisory council may also meet at other times
9 and places, including virtually, specified by the call of the
10 chairperson or of a majority of the councilmembers, as necessary, to
11 carry out the duties of the advisory council.

12 (7)(a) The department shall provide staff support and
13 facilitation as necessary for the advisory council to carry out its
14 duties.

15 (b) The department may select an impartial, third-party
16 facilitator to convene and provide administrative support to the
17 advisory council.

18 (8) The duties of the advisory council include the following:

19 (a)(i) Advise and make recommendations to the department on the
20 scope of the statewide needs assessments;

21 (ii) Advise and make recommendations to the department on the
22 amount of the additional refund value premium to be paid consistent
23 with section 309(2)(c) of this act;

24 (b) Review and comment on a draft performance rate study and on a
25 draft statewide needs assessment prior to their completion;

26 (c)(i) Advise and make recommendations to any registered producer
27 responsibility organization during stakeholder consultation on plans
28 as required under section 106 of this act;

29 (ii) Advise and make recommendations to any registered
30 distributor responsibility organization during stakeholder
31 consultation on plans as required under section 315 of this act;

32 (d)(i) Review and comment on all new and updated plans submitted
33 by producer responsibility organizations to the department, including
34 making recommendations to the department on plan approvals, as part
35 of the public comment period as established under section 104 of this
36 act;

37 (ii) Review and comment on all new and updated plans submitted by
38 distributor responsibility organizations to the department, including
39 making recommendations to the department on plan approvals, as part

1 of the public comment period as established under section 307 of this
2 act;

3 (e) (i) Advise and make recommendations to any registered producer
4 responsibility organization on annual reports prior to submission as
5 established in section 119 of this act;

6 (ii) Advise and make recommendations to any registered
7 distributor responsibility organization on annual reports prior to
8 submission as established in section 311 of this act;

9 (f) (i) Review and comment on all annual reports submitted by
10 producer responsibility organizations to the department, including
11 making recommendations to the department regarding the need for any
12 plan amendments or other recommendations regarding program
13 activities;

14 (ii) Review and comment on all annual reports submitted by
15 distributor responsibility organizations to the department, including
16 making recommendations to the department regarding the need for any
17 plan amendments or other recommendations regarding program
18 activities; and

19 (g) Provide input, review, and comment on rule making developed
20 by the department under this chapter or chapter 70A.--- RCW (the new
21 chapter created in section 603 of this act).

22 (9) Advisory councilmembers that are representatives of tribes or
23 tribal and indigenous services organizations or community-based and
24 environmental nonprofit organizations must, if requested, be
25 compensated and reimbursed in accordance with RCW 43.03.050,
26 43.03.060, and 43.03.220.

27 (10) The department must include costs related to the advisory
28 council in the estimate of annual costs as established in sections
29 104 and 307 of this act, including costs for:

30 (a) Department resources, including staff time;

31 (b) A third-party facilitator, including related costs; and

32 (c) Expenses related to member participation as established in
33 subsection (9) of this section.

34 NEW SECTION. **Sec. 121.** CONFIDENTIAL INFORMATION SUBMISSION. A
35 producer responsibility organization, material recovery facility, or
36 other processing facility that submits information or records to the
37 department under this chapter may request that the information or
38 records be made available only for the confidential use of the
39 department, the director of the department, or the appropriate

1 division of the department. The director of the department must give
2 consideration to the request and if this action is not detrimental to
3 the public interest and is otherwise in accordance with the policies
4 and purposes of chapter 43.21A RCW, the director must grant the
5 request for the information to remain confidential as authorized in
6 RCW 43.21A.160.

7 NEW SECTION. **Sec. 122.** PROHIBITION ON THE USES OF FUNDS BY
8 PRODUCER RESPONSIBILITY ORGANIZATIONS. (1) A producer responsibility
9 organization may not use funds collected for purposes of implementing
10 a plan required under this chapter for costs associated with:

11 (a) The payment of an administrative penalty levied under this
12 chapter;

13 (b) Administrative appeals of orders or penalties issued under
14 this chapter;

15 (c) Litigation between the producer responsibility organization
16 and the state;

17 (d) Compensation of a person whose position is primarily
18 representing the producer responsibility organization relative to the
19 passage, defeat, approval, or modification of legislation that is
20 being considered by a government entity; or

21 (e) Paid advertisements related to encouraging the passage,
22 defeat, or approval, or modification of legislation that is being
23 considered during an upcoming or current legislative session or was
24 considered during the previous legislative session.

25 (2) Nothing in this section limits the authority of a producer
26 responsibility organization to collect funds, such as through a
27 special assessment, for purposes other than implementing a plan
28 required under this chapter, such as for the purposes identified in
29 subsection (1) (a) through (e) of this section.

30 NEW SECTION. **Sec. 123.** ENFORCEMENT AUTHORITY. (1) (a) The
31 department may administratively impose a civil penalty of up to
32 \$1,000 per violation per day on any person who violates this chapter
33 or on any producer responsibility organization that violates the
34 postconsumer recycled content provisions applicable to producer
35 responsibility organizations under chapter 70A.--- RCW (the new
36 chapter created in section 602 of this act) and up to \$10,000 per
37 violation per day for the second and each subsequent violation.

1 (b) For producers out of compliance with the requirements of this
2 chapter, the department shall provide written notification and offer
3 information to producers in violation of this section. For the
4 purposes of this section, written notification serves as notice of
5 the violation. The department must issue at least one notice of
6 violation by certified mail prior to assessing a penalty and the
7 department may only impose a penalty on a producer that has not met
8 the requirements of this chapter 60 days following the date the
9 written notification of the violation was sent.

10 (2) Upon the department notifying a producer responsibility
11 organization that it has not met a significant requirement of this
12 chapter or chapter 70A.--- RCW (the new chapter created in section
13 602 of this act), the department may, in addition to assessing the
14 penalties provided in subsection (1) of this section, take any
15 combination of the following actions:

16 (a) (i) Issue corrective action orders to a producer or producer
17 responsibility organization;

18 (ii) Issue orders to a producer responsibility organization to
19 provide for the continued implementation of the program in the
20 absence of an approved plan;

21 (b) Revoke the producer responsibility organization's plan
22 approval and require the producer responsibility organization to
23 implement its contingency plan under section 109 of this act;

24 (c) Require a producer responsibility organization to revise or
25 resubmit a plan within a specified time frame; or

26 (d) Require additional reporting related to compliance with the
27 significant requirement of this chapter that was not met.

28 (3) Prior to taking the actions described in subsection (2)(b) of
29 this section, the department must provide the producer responsibility
30 organization or the producer an opportunity to respond to or rebut
31 the written finding upon which the action is predicated.

32 (4) Any person who incurs a penalty under subsection (1) of this
33 section or an order under subsection (2) of this section may appeal
34 the penalty or order to the pollution control hearings board
35 established in chapter 43.21B RCW.

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

38 NEW SECTION. **Sec. 124.** TRUTH IN LABELING. (1) Beginning January
39 1, 2027, a producer may not offer for sale, sell, or distribute in or

1 into Washington, including by means of remote sale, any covered
2 product under this chapter, certified product under chapter 70A.245
3 RCW, or qualifying beverage container under chapter 70A.--- RCW (the
4 new chapter created in section 603 of this act) that makes a
5 deceptive or misleading claim about its recyclability.

6 (a) A covered product, certified product, or qualifying beverage
7 container that displays a chasing arrows symbol, a chasing arrows
8 symbol surrounding a resin identification code, or any other symbol
9 or statement indicating that it is recyclable is deemed to be
10 deceptive or misleading unless it is designated for collection in a
11 producer responsibility organization plan approved by the department
12 as described in section 107 of this act or is a qualifying beverage
13 container in a deposit return system under chapter 70A.--- RCW (the
14 new chapter created in section 603 of this act).

15 (b) A label is not considered a misleading or deceptive claim of
16 recyclability if it:

17 (i) Is required by another state or by a federal law or agency at
18 the time that the claim is made;

19 (ii) Is part of a widely adopted and standardized third-party
20 labeling system; or

21 (iii) Uses a chasing arrows symbol in combination with a clearly
22 visible line placed at a 45-degree angle over the chasing arrows
23 symbol to convey that an item is not recyclable.

24 (2) At such time as an enforceable federal statutory or
25 regulatory standard is implemented for labeling packaging related to
26 recyclability, within 180 days the department shall review criteria
27 under this chapter with federal standards or requirements. Upon
28 completing its review, the department may adopt the federal criteria
29 in lieu of the requirements of this section.

30 (3) Beginning August 1, 2023, a city, town, or county may not
31 enforce an ordinance restricting the distribution or sale of covered
32 products, certified products, or qualifying beverage containers due
33 to displaying a chasing arrows symbol, a chasing arrows symbol
34 surrounding a resin identification code, or any other symbol or
35 statement indicating that it is recyclable if the covered product is,
36 at the time that the claim is made:

37 (a) Designated for collection in a producer responsibility
38 organization plan approved by the department as described in section
39 107 of this act;

1 (b) Required to display the symbol or statement by another state
2 or by a federal law or agency;

3 (c) Part of a widely adopted and standardized third-party
4 labeling system; or

5 (d) Using a chasing arrows symbol in combination with a clearly
6 visible line placed at a 45-degree angle over the chasing arrows
7 symbol to convey that an item is not recyclable.

8 NEW SECTION. **Sec. 125.** PACKAGING REGISTRATION CLEARINGHOUSE—
9 PRODUCER REGISTRATION. (1) The department is authorized to
10 participate in the development and ongoing operation of a regional or
11 multistate clearinghouse for the purpose of facilitating the
12 implementation of state laws and rules on packaging and paper
13 products including, but not limited to, requirements established
14 under this chapter and in chapter 69.50 RCW pertaining to packaging
15 of cannabis products, and chapters 70A.222, 70A.230, 70A.245,
16 70A.340, 70A.350, 70A.455, 70A.--- (the new chapter created in
17 section 602 of this act), and 70A.--- RCW (the new chapter created in
18 section 603 of this act) and other relevant laws.

19 (2) The department may direct producers, including third-party e-
20 commerce sellers, to register and submit any required data, annual
21 reports, fees, and annual payments, and any additional information or
22 documentation to a clearinghouse in lieu of the department.

23 NEW SECTION. **Sec. 126.** OTHER ASSISTANCE PROGRAMS. Nothing in
24 this act impacts an entity's eligibility for any state or local
25 incentive or assistance program to which they are otherwise eligible.

26 NEW SECTION. **Sec. 127.** ACCOUNT. The responsible packaging
27 management account is created in the custody of the state treasury.
28 All receipts received by the department under this chapter and
29 chapter 70A.--- RCW (the new chapter created in section 602 of this
30 act) must be deposited in the account. Only the director of the
31 department or the director's designee may authorize expenditures from
32 the account. The account is subject to the allotment procedures under
33 chapter 43.88 RCW, but an appropriation is not required for
34 expenditures. Expenditures from the account may be used by the
35 department only for implementing, administering, and enforcing the
36 requirements of this chapter and chapter 70A.--- RCW (the new chapter
37 created in section 602 of this act).

1 NEW SECTION. **Sec. 128.** PETITION FOR THE EXCLUSION OF CERTAIN

2 PRODUCTS. (1) Prior to the submission of a new or updated plan under
3 section 107 of this act, the department may review and determine for
4 the duration of the upcoming plan's period of applicability whether
5 to temporarily exclude for reasons of public health and safety from
6 the requirements of this chapter, except as provided in subsection
7 (5) of this section, packaging used to contain the following
8 categories of products, subcategories of the following categories of
9 products, or individual products that are:

10 (a) Regulated as a drug, medical device, or dietary supplement by
11 the federal food and drug administration under the federal food,
12 drug, and cosmetic act, 21 U.S.C. Sec. 301 et seq., as amended or any
13 federal regulation promulgated under the act, or any equipment and
14 materials used to manufacture such products; and

15 (b) Other products subject to requirements under federal laws
16 that make their inclusion in the requirements of this chapter
17 infeasible or inadvisable.

18 (2) The department's review may be initiated by the department or
19 upon a petition by a producer, group of producers, or producer
20 responsibility organization. The department may specify the date by
21 which a petition must be filed under subsection (1) of this section
22 in order to be considered timely for purposes of an upcoming plan
23 implementation period.

24 (3) In making a determination to temporarily exclude a category
25 of products, subcategory of products, or individual product pursuant
26 to subsection (1) of this section, the department must consider, at a
27 minimum, all of the following factors:

28 (a) The technical feasibility of including the category of
29 product, subcategory of product, or individual product in the program
30 created by this chapter, and in recycling the packaging of the
31 product or products; and

32 (b) The progress made by producers of products, categories of
33 products, or subcategories of products in achieving the goals of this
34 chapter, including by reducing the amount of packaging used with the
35 products, increasing the recycled content of the product packaging,
36 and increasing the ability of the products' packaging to be reused or
37 recycled if appropriate.

38 (4) The petition process established in this section is distinct
39 from the processes pertaining to adjustments and exclusions to
40 postconsumer recycled content requirements in section 210 of this

1 act. A product that is temporarily excluded under this section
2 remains subject to postconsumer recycled content requirements
3 established in chapter 70A.--- RCW (the new chapter created in
4 section 602 of this act) unless a petition is separately granted by
5 the department for a product under section 210 of this act.

6 (5) The producer of a product that is temporarily excluded from
7 the requirements of this chapter under this section must report,
8 directly to the department in a form and manner prescribed by the
9 department, the information related to the temporarily excluded
10 product that is required to be reported to the department by producer
11 responsibility organizations under sections 103 and 119 of this act.

12 **Part Two**

13 **Postconsumer Recycled Content Requirements**

14 NEW SECTION. **Sec. 201.** DEFINITIONS. The definitions in this
15 section and section 102 of this act apply throughout this chapter
16 unless the context clearly requires otherwise.

17 (1)(a) "Beverage" means liquid products intended for human or
18 animal consumption and in a quantity more than or equal to two fluid
19 ounces and less than or equal to one gallon, including:

20 (i) Water and flavored water;

21 (ii) Beer or other malt beverages;

22 (iii) Wine;

23 (iv) Distilled spirits;

24 (v) Mineral water, soda water, and similar carbonated soft
25 drinks;

26 (vi) Dairy milk; and

27 (vii) Any other beverage identified by the department by rule.

28 (b) "Beverage" does not include infant formula as defined in 21
29 U.S.C. Sec. 321(z), medical food as defined in 21 U.S.C. Sec.
30 360ee(b)(3), or fortified oral nutritional supplements used for
31 persons who require supplemental or sole source nutritional needs due
32 to special dietary needs directly related to cancer, chronic kidney
33 disease, diabetes, or other medical conditions as determined by the
34 department.

35 (2) "Beverage manufacturing industry" means an association that
36 represents beverage producers.

37 (3) "Brand" means a name, symbol, word, logo, or mark that
38 identifies a product and attributes the product and its components,

1 including packaging, to the brand owner of the product as the
2 producer.

3 (4) "Dairy milk" means a beverage made exclusively or principally
4 from lacteal secretions obtained from one or more milk-producing
5 animals. Dairy milk includes, but is not limited to:

6 (a) Whole milk, low-fat milk, skim milk, cream, half-and-half, or
7 condensed milk; or

8 (b) Cultured or acidified milk, kefir, or eggnog.

9 (5) "De minimis producer" means an entity that annually sells,
10 offers for sale, distributes, or imports:

11 (a) In or into the country for sale in Washington state less than
12 one ton of PCRC products specified in subsection (18)(a)(i) through
13 (vi) of this section; and

14 (b) That have a global gross revenue of less than \$5,000,000 for
15 the most recent fiscal year of the organization.

16 (6) "Department" means the department of ecology.

17 (7) "Durable good" means a product that provides utility over an
18 extended period of time.

19 (8) "Entity" means an individual and any form of business
20 enterprise. For purposes of calculating the de minimis producer
21 thresholds under this chapter, a producer entity includes all legal
22 entities that are affiliated by common ownership of 50 percent or
23 greater, including parents, subsidiaries, and commonly owned
24 affiliates.

25 (9) "Household" means all of the people who occupy a residential
26 property regardless of their relationship to one another.

27 (10) "Household cleaning and personal care product manufacturing
28 industry" means an association that represents companies that
29 manufacture household cleaning and personal care products.

30 (11) "Household cleaning products" means products labeled,
31 marketed, or otherwise indicating that the purpose of the product is
32 to clean, freshen, or remove unwanted substances, such as dirt,
33 stains, and other impurities from objects, interior or exterior
34 structures, vehicles, possessions, and environments associated with a
35 household. These items include:

36 (a) Liquid soaps, laundry soaps, detergents, softeners, surface
37 polishes, and stain removers;

38 (b) Textile cleaners, carpet and pet cleaners, and treatments; or

39 (c) Other products used to clean or freshen areas associated with
40 a household.

1 (12) "Licensee" means a manufacturer of a PCRC product or entity
2 who licenses a brand and manufactures a PCRC product under that
3 brand.

4 (13) "Personal care product" means a product intended or marketed
5 for use to be rubbed, poured, sprinkled, or sprayed on, introduced
6 into, or otherwise applied to the human body for cleansing,
7 beautifying, promoting attractiveness, or altering the appearance
8 including:

9 (a) Shampoo, conditioner, styling sprays and gels, and other hair
10 care products;

11 (b) Lotion, moisturizer, facial toner, and other skin care
12 products;

13 (c) Liquid soap and other body care products; or

14 (d) Other products used to maintain, improve, or enhance personal
15 care or appearance.

16 (14)(a) "Plastic beverage container" means a bottle or other
17 rigid container that is solely made of plastic material and is
18 capable of maintaining its shape when empty, comprised of one or
19 multiple plastic resins designed to contain a beverage. "Plastic
20 beverage container" includes a container's cap or lid.

21 (b) "Plastic beverage container" does not include:

22 (i) Reusable beverage containers, such as containers that are
23 sufficiently durable for multiple rotations of their original or
24 similar purpose and are intended to function in a system of reuse;

25 (ii) Rigid plastic containers or plastic bottles that are or are
26 used for medical devices, medical products that are required to be
27 sterile, drugs, or dietary supplements as defined in RCW 82.08.0293
28 that do not contain a "nutrition facts" label required under federal
29 law;

30 (iii) Bladders or pouches that contain a beverage;

31 (iv) Paper-based beverage containers; or

32 (v) Liners, corks, closures, labels, and other items added
33 externally or internally but otherwise separate from the structure of
34 the bottle or container, other than a lid or cap.

35 (15)(a) "Plastic household cleaning and personal care product
36 container" means a bottle, jug, tub, tube, or other rigid container
37 with:

38 (i) A minimum capacity of eight fluid ounces or its equivalent
39 volume;

1 (ii) A maximum capacity of five fluid gallons or its equivalent
2 volume;

3 (iii) That is capable of maintaining its shape when empty;

4 (iv) Comprised solely of one or multiple plastic resins; and

5 (v) Containing a household cleaning or personal care product.

6 (b) "Plastic household cleaning and personal care product
7 container" does not include:

8 (i) Reusable household cleaning and personal care product
9 containers, such as containers that are sufficiently durable for
10 multiple rotations of their original or similar purpose and are
11 intended to function in a system of reuse;

12 (ii) Rigid plastic containers or plastic bottles that are medical
13 devices, medical products that are required to be sterile,
14 prescription drugs, and dietary supplements as defined in RCW
15 82.08.0293, and packaging used for those products; and

16 (iii) Pesticide products regulated by the federal insecticide,
17 fungicide, and rodenticide act, 7 U.S.C. Sec. 136 et seq. that are in
18 direct contact with the regulated product. This exemption does not
19 include products regulated by the United States food and drug
20 administration.

21 (16) (a) "Plastic tub" means a wide-mouth rigid container used to
22 package consumable or durable goods that reach consumers, with a
23 maximum capacity of 50 ounces, that is:

24 (i) Capable of maintaining its shape when empty;

25 (ii) Comprised solely of one or multiple plastic resins and
26 designed to contain a product; and

27 (iii) Sealed with tamper-proof film or a detachable lid capable
28 of multiple openings and closures.

29 (b) "Plastic tub" does not include:

30 (i) Household cleaning and personal care products;

31 (ii) Plastic containers that are or are used for medical devices,
32 medical products that are required to be sterile, nonprescription and
33 prescription drugs, or dietary supplements as defined in RCW
34 82.08.0293;

35 (iii) Thermoform plastic containers;

36 (iv) Single-use plastic cups; and

37 (v) Other covered products subject to minimum PCRC requirements.

38 (17) (a) (i) "Postconsumer recycled content" or "PCRC" means the
39 certified plastic resin incorporated into plastic packaging for a
40 PCRC product and derived specifically from recycled material

1 generated by households or by commercial or institutional facilities
2 in their role as end users of packaged products that can no longer be
3 used for their intended purpose.

4 (ii) "PCRC" includes returns of material from the distribution
5 chain.

6 (b) "PCRC" does not include plastic from preconsumer or
7 industrial plastic manufacturing sources.

8 (18)(a) "Postconsumer recycled content product" or "PCRC product"
9 means an item in one of the following categories subject to minimum
10 PCRC requirements under this chapter:

11 (i) Household cleaning products that use plastic household
12 cleaning product containers;

13 (ii) Personal care products that use personal care product
14 containers;

15 (iii) Beverages that use plastic beverage containers;

16 (iv) Plastic tubs for food products;

17 (v) Thermoform plastic containers; and

18 (vi) Single-use plastic cups.

19 (b) "PCRC product" does not include any type of container or bag
20 for which the state is preempted from regulating content of the
21 container material under federal law or any items subject to the
22 postconsumer recycling content requirements of chapter 70A.245 RCW.

23 (19)(a) "Producer" means the following person responsible for
24 compliance with requirements under this chapter for a PCRC product
25 sold, offered for sale, or distributed in or into this state:

26 (i) If the product is sold in or with packaging under the brand
27 of the product manufacturer or is sold in packaging that lacks
28 identification of a brand, the producer of the packaging is the
29 person that manufactures the product;

30 (ii) If the product is sold under a retail brand, the producer is
31 the retail brand owner;

32 (iii) If the product is manufactured by a person other than the
33 brand owner, the producer of the packaging is the person that is the
34 licensee of a brand or trademark under which a packaged item is used
35 in a commercial enterprise, sold, offered for sale, or distributed in
36 or into this state, whether or not the trademark is registered in
37 this state;

38 (iv) If there is no person described in (a)(i), (ii), or (iii) of
39 this subsection within the United States, the producer is the person
40 who imports the product into the United States for use in a

1 commercial enterprise that sells, offers for sale, or distributes the
2 product in this state; or

3 (v) A person who would be considered a "producer" of a PCRC
4 product sold, offered for sale, or distributed in or into this state,
5 as defined in (a)(i) through (iv) of this subsection, can designate
6 another responsible producer for that PCRC product if another person
7 agrees to accept responsibility and has registered as the producer
8 responsible for that PCRC product under this chapter.

9 (b) "Producer" does not include:

10 (i) Government agencies, municipalities, or other political
11 subdivisions of the state;

12 (ii) Registered 501(c)(3) charitable organizations and 501(c)(4)
13 social welfare organizations; or

14 (iii) De minimis producers that annually sell, offer for sale,
15 distribute, or import:

16 (A) In Washington state less than one ton of PCRC products; and

17 (B) That have a global gross revenue of less than \$5,000,000 for
18 the most recent fiscal year of the organization.

19 (20) "Producer responsibility organization" has the same meaning
20 as defined in section 102 of this act, except that for the purposes
21 of this chapter, "producer responsibility organization" includes a
22 distributor responsibility organization formed under chapter 70A.---
23 RCW (the new chapter created in section 603 of this act), if a
24 distributor responsibility organization is formed.

25 (21) "Responsible producer" means a producer that is not a de
26 minimis producer.

27 (22)(a) "Retail establishment" means any person, corporation,
28 partnership, business, facility, vendor, organization, or individual
29 that sells or provides merchandise, goods, or materials directly to a
30 customer.

31 (b) "Retail establishment" includes, but is not limited to, food
32 service businesses as defined in RCW 70A.245.010, grocery stores,
33 department stores, hardware stores, home delivery services,
34 pharmacies, liquor stores, restaurants, catering trucks, convenience
35 stores, or other retail stores or vendors, including temporary stores
36 or vendors at farmers markets, street fairs, and festivals.

37 (23)(a) "Single-use plastic cup" means all beverage cups that are
38 nonsealed or sealed at point of sale.

39 (b) "Single-use plastic cups" do not include:

40 (i) Commercially or home compostable cups;

- 1 (ii) Expanded polystyrene cups; or
- 2 (iii) Composite plastic-lined fiber cups.

3 (24) (a) "Thermoform plastic container" means a clear or colored
4 plastic container, such as a clamshell, lid, tray, egg carton,
5 trifold, or similar rigid, nonbottle packaging, formed from sheets of
6 extruded plastic resin and used to package consumable or durable
7 goods that reach consumers, including:

8 (i) Branded and prepackaged containers that have been filled with
9 products and sealed prior to receipt by the retail establishment,
10 such as fresh produce, baked goods, nuts, toys, electronics, and
11 tools;

12 (ii) Containers that may be filled at the point of sale at a
13 retail establishment; and

14 (iii) Unfilled containers that are sold directly.

15 (b) "Thermoform plastic container" includes:

16 (i) Hinged plastic containers, commonly known as "clamshells" or
17 "blister packaging";

18 (ii) Two-piece unhinged containers;

19 (iii) One-piece containers without lids, such as trays; and

20 (iv) Trifold or tent containers with one or more hinges and a
21 flat bottom.

22 (c) "Thermoform plastic container" does not include:

23 (i) Household cleaning products or personal care products;

24 (ii) Plastic tubs;

25 (iii) Reusable containers;

26 (iv) A lid or seal of a different material type from plastic;

27 (v) A reusable thermoform plastic container that ordinarily would
28 be returned to the manufacturer to be refilled and resold;

29 (vi) Plastic containers that are or are used for medical devices,
30 medical products that are required to be sterile, prescription drugs,
31 or dietary supplements as defined in RCW 82.08.0293;

32 (vii) Commercially or home compostable containers;

33 (viii) Other PCRC products; and

34 (ix) Thermoform plastic containers accompanying a durable good
35 when the durable good model, and the associated packaging, was
36 designed prior to January 1, 2025.

37 NEW SECTION. **Sec. 202.** DE MINIMIS PRODUCERS. (1) For purposes
38 of determining whether a producer is a de minimis producer, the
39 weight and revenue definitional thresholds must be calculated at the

1 level of the "entity" associated with the PCRC product by the
2 producer responsibility organization.

3 (2) The exemptions under this chapter for de minimis producers do
4 not apply to entities that have agreed to accept responsibility for
5 compliance with the requirements of this chapter for a PCRC product
6 on the behalf of another producer.

7 (3) (a) De minimis producers are not required to meet annual
8 registration, reporting, PCRC, or fee requirements of PCRC products
9 under this chapter.

10 (b) De minimis producers must annually notify the producer
11 responsibility organization in which the producer participates to
12 demonstrate that they are de minimis producers.

13 (4) The producer responsibility organization must submit to the
14 department information necessary to verify whether a producer
15 qualifies for the de minimis status, including:

16 (a) Annual global gross revenue dollar amount less than or equal
17 to \$5,000,000;

18 (b) Annual total resin weight less than or equal to one ton; and

19 (c) Any additional information requested by the department.

20 NEW SECTION. **Sec. 203.** PCRC REQUIREMENTS FOR PCRC PRODUCTS.

21 (1) (a) By January 1, 2025, and each January 1st thereafter, a
22 producer responsibility organization under chapter 70A.--- RCW (the
23 new chapter created in section 601 of this act) that represents
24 producers who offers for sale, sells, or distributes in or into
25 Washington PCRC products must register with the department on behalf
26 of each producer registered with the producer responsibility
27 organization with sale or distribution of PCRC products in or into
28 Washington. A producer must continue to register and report to the
29 department under the methods established in chapter 70A.245 RCW until
30 a producer responsibility organization registers with the department
31 under chapter 70A.--- RCW (the new chapter created in section 601 of
32 this act).

33 (b) The registration information submitted under (a) of this
34 subsection must include a list of the producers of PCRC products and
35 the associated brand names of the PCRC products represented in the
36 registration submittal.

37 (2) Producers that offer for sale, sell, or distribute in or into
38 Washington the following products must meet the minimum postconsumer
39 recycled content requirements:

1 (a) Beginning January 1, 2024, producers of beverages other than
2 wine in 187 milliliter plastic beverage containers and dairy milk in
3 plastic beverage containers must meet minimum PCRC requirements
4 established under section 204 of this act.

5 (b) Beginning January 1, 2025, producers of household cleaning
6 products or personal care products in plastic household cleaning
7 product containers or plastic personal care product containers must
8 meet minimum PCRC requirements as required under section 205 of this
9 act.

10 (c) Beginning January 1, 2026, producers of plastic tubs used for
11 food products must meet minimum PCRC requirements established under
12 section 206 of this act.

13 (d) Beginning January 1, 2028, producers of wine in 187
14 milliliter plastic beverage containers or dairy milk in plastic
15 beverage containers must meet minimum PCRC requirements established
16 under section 204 of this act.

17 (e) Beginning January 1, 2029, producers of single-use plastic
18 cups must meet minimum PCRC requirements established under section
19 207 of this act.

20 (f) Beginning January 1, 2031, producers of thermoform plastic
21 containers, except those containing durable goods, must meet minimum
22 PCRC requirements established under section 208 of this act.

23 (g) Beginning January 1, 2036, producers of durable goods in
24 thermoform plastic containers must meet minimum PCRC requirements
25 established under section 208 of this act.

26 (3)(a) In addition to the registration information submitted
27 under subsection (1) of this section, each producer of a PCRC product
28 must annually report PCRC to the producer responsibility organization
29 with which it is registered, beginning on the following dates:

30 (i) No later than 30 days after the registration of a producer
31 with a producer responsibility organization under subsection (1)(a)
32 of this section, for plastic beverage containers other than plastic
33 dairy milk containers and 187 milliliter plastic wine containers;

34 (ii) February 1, 2026, for plastic household cleaning product
35 containers and plastic personal care product containers;

36 (iii) February 1, 2027, for plastic tubs used for food products;

37 (iv) February 1, 2029, for plastic dairy milk containers and 187
38 milliliter plastic wine containers;

39 (v) February 1, 2030, for single-use plastic cups;

1 (vi) February 1, 2032, for thermoform plastic containers except
2 those containing durable goods; and

3 (vii) February 1, 2037, for thermoform plastic containers
4 containing durable goods.

5 (b) Producer PCRC annual reports to the producer responsibility
6 organization must include:

7 (i) The amount in pounds of virgin plastic and the amount in
8 pounds of PCRC by resin type used within a single PCRC product
9 category sold, offered for sale, or distributed in or into
10 Washington;

11 (ii) The total PCRC resin as a percentage of the total weight of
12 plastic reported for a single PCRC product category, or other metrics
13 approved by the department; and

14 (iii) Any additional information adopted by rule by the
15 department.

16 NEW SECTION. **Sec. 204.** PCRC REQUIREMENTS FOR PLASTIC BEVERAGE
17 CONTAINERS. A producer of a beverage in a plastic beverage container
18 must meet the following annual minimum PCRC percentage on average for
19 the total quantity of plastic beverage containers, by weight, that
20 are sold, offered for sale, or distributed in or into Washington by
21 the producer effective:

22 (1) For beverages except wine in 187 milliliter plastic beverage
23 containers and dairy milk:

24 (a) January 1, 2024, through December 31, 2025: No less than 15
25 percent PCRC plastic by weight;

26 (b) January 1, 2026, through December 31, 2030: No less than 25
27 percent PCRC plastic by weight; and

28 (c) On and after January 1, 2031: No less than 50 percent PCRC
29 plastic by weight.

30 (2) For wine in 187 milliliter plastic beverage containers and
31 dairy milk:

32 (a) January 1, 2028, through December 31, 2030: No less than 15
33 percent PCRC plastic by weight;

34 (b) January 1, 2031, through December 31, 2035: No less than 25
35 percent PCRC plastic by weight; and

36 (c) On and after January 1, 2036: No less than 50 percent PCRC
37 plastic by weight.

1 NEW SECTION. **Sec. 205.** PCRC REQUIREMENTS FOR HOUSEHOLD CLEANING
2 PRODUCTS AND PERSONAL CARE PRODUCTS. A producer of household cleaning
3 products in plastic containers or a producer of personal care
4 products in plastic containers must meet the following annual minimum
5 PCRC percentage on average for the total quantity of plastic
6 containers, by weight, that are sold, offered for sale, or
7 distributed in or into Washington by the producer effective:

8 (1) January 1, 2025, through December 31, 2027: No less than 15
9 percent PCRC plastic by weight;

10 (2) January 1, 2028, through December 31, 2030: No less than 25
11 percent PCRC plastic by weight; and

12 (3) On and after January 1, 2031: No less than 50 percent PCRC
13 plastic by weight.

14 NEW SECTION. **Sec. 206.** PCRC REQUIREMENTS FOR PLASTIC TUBS FOR
15 FOOD PRODUCTS. A producer of plastic tubs must meet the following
16 annual minimum PCRC percentage on average for the total quantity of
17 plastic tubs used for food products, by weight, that are sold,
18 offered for sale, or distributed in or into Washington by the
19 producer effective:

20 (1) January 1, 2026, through December 31, 2030: No less than 10
21 percent PCRC plastic by weight; and

22 (2) On and after January 1, 2031: No less than 30 percent PCRC
23 plastic by weight.

24 NEW SECTION. **Sec. 207.** PCRC REQUIREMENTS FOR SINGLE-USE PLASTIC
25 CUPS. A producer of single-use plastic cups must meet the following
26 annual minimum PCRC percentage on average for the total quantity of
27 single-use plastic cups, by weight, that are sold, offered for sale,
28 or distributed in or into Washington by the producer effective:

29 (1) For polypropylene single-use plastic cups:

30 (a) January 1, 2029, through December 31, 2030: No less than 15
31 percent PCRC plastic by weight; and

32 (b) On and after January 1, 2031: No less than 25 percent PCRC
33 plastic by weight.

34 (2) For polyethylene terephthalate and polystyrene, and other
35 types of single-use plastic cups:

36 (a) January 1, 2029, through December 31, 2030: No less than 20
37 percent PCRC plastic by weight; and

1 (b) On and after January 1, 2031: No less than 30 percent PCRC
2 plastic by weight.

3 NEW SECTION. **Sec. 208.** PCRC REQUIREMENTS FOR THERMOFORM PLASTIC
4 CONTAINERS. A producer of a thermoform plastic container must meet
5 the following annual minimum PCRC percentage on average for the total
6 quantity of thermoform plastic containers, by weight, that are sold,
7 offered for sale, or distributed in or into Washington by the
8 producer effective:

9 (1) For packaging for consumable goods:

10 (a) January 1, 2031, through December 31, 2035: No less than 10
11 percent PCRC plastic by weight; and

12 (b) On and after January 1, 2036: No less than 30 percent PCRC
13 plastic by weight.

14 (2)(a) Except as provided in (b) of this subsection, for
15 packaging used for durable goods: On and after January 1, 2036, no
16 less than 30 percent PCRC plastic by weight.

17 (b) Packaging designed to accompany a durable good where that
18 durable good model is designed prior to the effective date of the
19 requirement in (a) of this subsection is exempt.

20 NEW SECTION. **Sec. 209.** PCRC REPORTING BY PRODUCER
21 RESPONSIBILITY ORGANIZATIONS. (1) A producer responsibility
22 organization reporting to the department under this chapter must pay
23 fees as specified in chapter 70A.--- RCW (the new chapter created in
24 section 601 of this act).

25 (2) Beginning April 1, 2025, and each April 1st thereafter, a
26 producer responsibility organization must annually report to the
27 department for each producer of PCRC products for which it receives
28 reports from producers under section 203 of this act:

29 (a) The amount in pounds of virgin plastic resin;

30 (b) The amount in pounds of PCRC by resin type used for each
31 category of covered products that are sold, offered for sale, or
32 distributed in or into Washington;

33 (c) The total PCRC resins as a percentage of total weight;

34 (d) Any other information necessary to fulfill the intent of this
35 chapter, as required by rule adopted by the department.

36 (3)(a) The report must be submitted in a format and manner
37 prescribed by the department. A producer may submit national or
38 regional data allocated on a per capita basis for Washington to

1 approximate the information required in this section if the producer
2 or third-party representative demonstrates to the department that
3 state level data are not available or feasible to generate.

4 (b) A producer must maintain a certificate of compliance,
5 conducted by a third-party certification entity, stating that the
6 covered product is in compliance with postconsumer recycled content
7 requirements under this chapter. A third-party certification entity
8 must be an independent, accredited (ISO/IEC 17065) certifying body. A
9 producer shall maintain a certificate of compliance within a year by
10 the dates on which the postconsumer recycled content requirements
11 take effect for the producer's PCRC products.

12 (c) If compliance with minimum recycled content requirements is
13 achieved through an adjustment made pursuant to section 210 of this
14 act, the certificate must state the specific basis upon which the
15 exemption is claimed.

16 (d) The certificate of compliance must be kept on file by the
17 producer for three years from the date of the last sale or
18 distribution by the producer.

19 (e) A producer must furnish a certificate of compliance to the
20 department upon request within 60 days.

21 (f) Requests from a member of the public for any certificate of
22 compliance must be made in writing to the department and must be
23 specific as to the PCRC product information requested. The department
24 must respond to requests from a member of the public under this
25 subsection within 90 days.

26 (g) If manufacturers are required under any other state statute,
27 including chapter 70A.222 RCW, to provide a certificate of
28 compliance, one certificate may be developed containing all required
29 information.

30 (h) If the producer of the PCRC product reformulates or creates a
31 new PCRC product, the producer shall develop an amended or new
32 certificate of compliance for the reformulated or new PCRC product.

33 (4) (a) A producer responsibility organization may, as part of the
34 annual report submitted to the department under this section, or as a
35 separate submission in advance of the effective dates in sections 205
36 through 208 of this act, petition for an exclusion or adjustment
37 under section 210 of this act covering the upcoming calendar year to
38 the minimum PCRC requirements on behalf of producers registered with
39 the producer responsibility organization.

1 (b) When submitting a petition for a PCRC rate adjustment, the
2 producer responsibility organization must provide necessary
3 information that will allow the department to make a determination
4 based on the factors listed in section 210(2) of this act.

5 (c) When submitting a petition for a PCRC rate temporary
6 exclusion, the producer responsibility organization must provide
7 necessary information that will allow the department to make a
8 determination based on the factors listed in section 210(4) of this
9 act.

10 (5) The department must review and determine whether to approve
11 PCRC reports submitted by producer responsibility organizations. The
12 department must:

13 (a) Make PCRC reports submitted under this section, including
14 petitions for exclusions or rate adjustments under section 210 of
15 this act, available for public review and comment for at least 30
16 days upon the receipt of the annual report by the department;

17 (b) Make a determination as to whether or not an annual report
18 meets the requirements of this section and notify the producer
19 responsibility organization of the:

20 (i) Determination of approval of the PCRC annual report; or

21 (ii) Reasons for not approving the PCRC annual report. The
22 producer responsibility organization must submit a revised PCRC
23 annual report within 60 days after receipt of the letter of
24 disapproval.

25 (6) The department must post approved PCRC annual reports
26 submitted by each producer responsibility organization under this
27 section on its website.

28 NEW SECTION. **Sec. 210.** ADJUSTMENTS AND TEMPORARY EXCLUSIONS TO
29 PCRC RATES. (1) The department may review and determine for the
30 following calendar year whether to adjust the minimum PCRC percentage
31 required for a type of container or PCRC product or category of PCRC
32 products under this chapter. The department's review may be initiated
33 by the department or upon a petition by a producer responsibility
34 organization in its annual report submitted to the department under
35 section 209 of this act.

36 (2) In making a determination pursuant to subsection (1) of this
37 section, the department must consider, at a minimum, all of the
38 following factors:

1 (a) Changes in market conditions, including supply and demand for
2 PCRC plastics, collection rates, and bale availability both
3 domestically and globally;

4 (b) Recycling rates;

5 (c) The availability of recycled plastic suitable to meet the
6 minimum PCRC requirements pursuant to subsection (3) or (4) of this
7 section, including the availability of high quality recycled plastic,
8 and food-grade recycled plastic from recycling programs;

9 (d) The capacity of recycling or processing infrastructure;

10 (e) The technical feasibility of achieving the minimum PCRC
11 requirements in covered products that are regulated under 21 C.F.R.,
12 chapter I, subchapter G, 7 U.S.C. Sec. 136, 15 U.S.C. Sec. 1471-1477,
13 49 C.F.R. Sec. 178.33b, 49 C.F.R. Sec. 173, 40 C.F.R. Sec. 152.10, 15
14 U.S.C. Sec. 1261-1278, 49 U.S.C. Sec. 5101 et seq., 49 C.F.R. Sec.
15 178.509, 49 C.F.R. Sec. 179.522, 49 C.F.R. Sec. 178.600-609, and
16 other federal laws; and

17 (f) The progress made by producers in achieving the goals of this
18 chapter.

19 (3)(a) Under this section, the department may not adjust the
20 minimum PCRC requirements above the minimum PCRC percentages under
21 sections 204, 206, 207, and 208 of this act for the year under
22 review.

23 (b) For plastic household cleaning product containers and plastic
24 personal care product containers, the department may not adjust the
25 minimum PCRC requirements above the minimum PCRC percentages for the
26 year under review required pursuant to section 205 of this act or
27 below a minimum of 10 percent.

28 (4)(a) The department must temporarily exclude from minimum PCRC
29 requirements for the upcoming year any types of PCRC products in
30 plastic containers for which a producer responsibility organization
31 demonstrates to the department in its annual report under section 209
32 of this act that the:

33 (i) Producer cannot achieve the PCRC requirements and remain in
34 compliance with applicable rules and regulations adopted by the
35 United States food and drug administration, or any other state or
36 federal law, rule, or regulation; or

37 (ii) Achievement of PCRC requirements in the container material
38 is not technologically feasible.

39 (b) The producer responsibility organization must continue to
40 provide producer registration data and report consistent with the

1 requirements of this chapter for PCRC products temporarily excluded
2 from minimum PCRC requirements under this subsection.

3 (5) A producer or producer responsibility organization may appeal
4 a decision by the department to adjust PCRC percentages under this
5 section or to temporarily exclude covered products from minimum PCRC
6 requirements under subsection (4) of this section to the pollution
7 control hearings board within 30 days of the department's
8 determination.

9 NEW SECTION. **Sec. 211.** ADMINISTRATIVE ROLE AND ENFORCEMENT BY
10 THE DEPARTMENT. (1)(a) A producer that does not pay fees, register,
11 report, or achieve the PCRC requirements established under this
12 chapter is subject to the penalties provided in this section.

13 (b) A producer responsibility organization that does meet the
14 registration, fee payment, or reporting requirements under this
15 chapter is subject to the provisions provided in section 123 of this
16 act.

17 (2)(a) A producer assessed a penalty pursuant to this chapter
18 must remit the penalty to the producer responsibility organization
19 with which it is registered. A producer responsibility organization
20 must submit aggregated penalty payments comprised of the remitted
21 penalty payments from all producers owing penalties under this
22 chapter that are members of the producer responsibility organization.
23 The producer responsibility organization's aggregated payment may be
24 a single annual payment, paid in quarterly installments, or on an
25 alternative payment schedule arranged subject to the approval of the
26 department. The department may not approve an alternative payment
27 schedule that exceeds a 12-month time frame unless the department
28 determines that an extension is needed due to unforeseen
29 circumstances, such as a public health emergency, state of emergency,
30 or natural disaster.

31 (b) Beginning June 1st of the year following the first year that
32 minimum PCRC requirements apply to a category of PCRC product, and
33 annually thereafter, the department must determine the penalty for
34 the previous calendar year based on the PCRC requirement of the
35 previous calendar year. The department shall calculate the amount of
36 the penalty based upon the amount in pounds in the aggregate of
37 virgin plastic, PCRC plastic, and any other plastic per category used
38 by the producer to produce PCRC products sold or offered for sale in
39 or into Washington, in accordance with the following:

1 (i)(A) Based on data provided in the annual report submitted
2 under section 209 of this act by a producer responsibility
3 organization, the annual penalty amount assessed to a producer must
4 equal the product of both of the following: The total pounds of
5 plastic used per category multiplied by the relevant minimum PCRC
6 plastic target percentage, less the pounds of total plastic
7 multiplied by the percent of PCRC plastic used; multiplied by 20
8 cents.

9 (B) Example: [(Total pounds of plastic used x minimum PCRC
10 plastic target percentage) - (Total pounds of plastic used x PCRC
11 plastic percentage used)] x 20 cents.

12 (ii) For the purposes of (b)(i) of this subsection, both of the
13 following apply:

14 (A) The total pounds of plastic used must equal the sum of the
15 amount of virgin plastic, PCRC plastic, and any other plastic used by
16 the producer, as reported pursuant to section 209 of this act;

17 (B) If the mathematical product calculated pursuant to (b)(i) of
18 this subsection is equal to or less than zero, the department may not
19 assess a penalty.

20 (3)(a) Upon request by a producer responsibility organization,
21 the department must consider granting a reduction of penalties
22 assessed under this section for a producer's failure to achieve PCRC
23 requirements established in this chapter. Penalty reduction requests
24 under this subsection must be submitted to the department by August
25 1st of each year. A producer responsibility organization's request to
26 the department must contain sufficient information described in (b)
27 of this subsection to allow the department to determine whether to
28 grant the request.

29 (b) In determining whether to grant a penalty reduction, the
30 department must consider, at minimum, all of the following factors:

- 31 (i) Anomalous market conditions;
32 (ii) Disruption in, or lack of supply of, recycled plastics; and
33 (iii) Other factors that have prevented a producer from meeting
34 the minimum PCRC requirements of this chapter.

35 (c) In lieu of or in addition to assessing a penalty under this
36 section, the department may require a producer responsibility
37 organization to submit on behalf of a producer or group of producers
38 a corrective action plan detailing how the producer or producers plan
39 to come into compliance with this chapter.

1 (4) For purposes of determining compliance with the PCRC
2 requirements of this chapter, the department may consider information
3 provided by the producer responsibility organization regarding the
4 date of manufacture of a PCRC product or the container of a PCRC
5 product.

6 (5)(a) A producer or a producer responsibility organization may
7 appeal penalties assessed and orders issued under this chapter to the
8 pollution control hearings board within 30 days of penalty assessment
9 or order issuance.

10 (b) Penalties collected under this section must be deposited in
11 the recycling enhancement account created in RCW 70A.245.100.

12 (6)(a) A city, town, county, or municipal corporation may not
13 implement local recycled content requirements for a PCRC product that
14 is subject to minimum PCRC requirements established in this chapter.

15 (b) A city, town, county, or municipal corporation may establish
16 local purchasing requirements that include recycled content standards
17 that exceed the minimum recycled content requirements established by
18 this chapter for plastic household cleaning product containers and
19 plastic personal care product containers purchased by a city, town,
20 or municipal corporation, or its contractor.

21 (7) In-state distributors, wholesalers, and retail establishments
22 in possession of PCRC products manufactured before the date that PCRC
23 requirements become effective may exhaust their existing stock
24 through sales to the public.

25 NEW SECTION. **Sec. 212.** RULE-MAKING AUTHORITY. The department
26 may adopt rules as necessary to implement, administer, and enforce
27 this chapter.

28 **Sec. 213.** RCW 70A.245.010 and 2021 c 313 s 2 are each amended to
29 read as follows:

30 The definitions in this section apply throughout this chapter
31 unless the context clearly requires otherwise.

32 (1) (~~"Beverage" means beverages identified in (a) through (f) of~~
33 ~~this subsection, intended for human or animal consumption, and in a~~
34 ~~quantity more than or equal to two fluid ounces and less than or~~
35 ~~equal to one gallon:~~

36 ~~(a) Water and flavored water;~~

37 ~~(b) Beer or other malt beverages;~~

38 ~~(c) Wine;~~

1 ~~(d) Distilled spirits;~~

2 ~~(e) Mineral water, soda water, and similar carbonated soft~~
3 ~~drinks; and~~

4 ~~(f) Any beverage other than those specified in (a) through (e) of~~
5 ~~this subsection, except infant formula as defined in 21 U.S.C. Sec.~~
6 ~~321(z), medical food as defined in 21 U.S.C. Sec. 360ee(b)(3), or~~
7 ~~fortified oral nutritional supplements used for persons who require~~
8 ~~supplemental or sole source nutritional needs due to special dietary~~
9 ~~needs directly related to cancer, chronic kidney disease, diabetes,~~
10 ~~or other medical conditions as determined by the department.~~

11 ~~(2) "Beverage manufacturing industry" means an association that~~
12 ~~represents beverage producers.~~

13 ~~(3))~~ (3) "Condiment packaging" means packaging used to deliver
14 single-serving condiments to customers. Condiment packaging includes,
15 but is not limited to, single-serving packaging for ketchup, mustard,
16 relish, mayonnaise, hot sauce, coffee creamer, salad dressing, jelly,
17 jam, and soy sauce.

18 ~~((4) (a) "Covered product" means an item in one of the following~~
19 ~~categories subject to minimum postconsumer recycled content~~
20 ~~requirements:~~

21 ~~(i) Plastic trash bags;~~

22 ~~(ii) Household cleaning and personal care products that use~~
23 ~~plastic household cleaning and personal care product containers; and~~

24 ~~(iii) Beverages that use plastic beverage containers.~~

25 ~~(b) "Covered product" does not include any type of container or~~
26 ~~bag for which the state is preempted from regulating content of the~~
27 ~~container material or bag material under federal law.~~

28 ~~(5) "Dairy milk" means a beverage that designates milk as the~~
29 ~~predominant (first) ingredient in the ingredient list on the~~
30 ~~container's label.~~

31 ~~(6))~~ (2) "Department" means the department of ecology.

32 ~~((7))~~ (3) "Expanded polystyrene" means blown polystyrene and
33 expanded and extruded foams that are thermoplastic petrochemical
34 materials utilizing a styrene monomer and processed by any number of
35 techniques including, but not limited to, fusion of polymer spheres
36 (expandable bead polystyrene), injection molding, foam molding, and
37 extrusion-blow molding (extruded foam polystyrene).

38 ~~((8))~~ (4) "Food service business" means a business selling or
39 providing food for consumption on or off the premises, and includes
40 full-service restaurants, fast food restaurants, cafes,

1 delicatessens, coffee shops, grocery stores, vending trucks or carts,
2 home delivery services, delivery services provided through an online
3 application, and business or institutional cafeterias.

4 ~~((9))~~ (5) "Food service product" means a product intended for
5 one-time use and used for food or drink offered for sale or use. Food
6 service products include, but are not limited to, containers, plates,
7 bowls, cups, lids, beverage containers, meat trays, deli rounds,
8 utensils, sachets, straws, condiment packaging, clamshells and other
9 hinged or lidded containers, wrap, and portion cups.

10 ~~((10) "Household cleaning and personal care product" means any
11 of the following:~~

12 ~~(a) Laundry detergents, softeners, and stain removers;~~

13 ~~(b) Household cleaning products;~~

14 ~~(c) Liquid soap;~~

15 ~~(d) Shampoo, conditioner, styling sprays and gels, and other hair
16 care products; or~~

17 ~~(e) Lotion, moisturizer, facial toner, and other skin care
18 products.~~

19 ~~(11) "Household cleaning and personal care product manufacturing
20 industry" means an association that represents companies that
21 manufacture household cleaning and personal care products.~~

22 ~~(12))~~ (6) "Licensee" means a manufacturer of a certified PCRC
23 product or entity who licenses a brand and manufactures a ~~((covered~~
24 ~~product))~~ certified PCRC product under that brand.

25 ~~((13) "Oral nutritional supplement" means a manufactured liquid,
26 powder capable of being reconstituted, or solid product that contains
27 a combination of carbohydrates, proteins, fats, fiber, vitamins, and
28 minerals intended to supplement a portion of a patient's nutrition
29 intake.~~

30 ~~(14) "Plastic beverage container" means a bottle or other rigid
31 container that is capable of maintaining its shape when empty,
32 comprised solely of one or multiple plastic resins designed to
33 contain a beverage. Plastic beverage container does not include:~~

34 ~~(a) Refillable beverage containers, such as containers that are
35 sufficiently durable for multiple rotations of their original or
36 similar purpose and are intended to function in a system of reuse;~~

37 ~~(b) Rigid plastic containers or plastic bottles that are or are
38 used for medical devices, medical products that are required to be
39 sterile, nonprescription and prescription drugs, or dietary
40 supplements as defined in RCW 82.08.0293;~~

1 ~~(c) Bladders or pouches that contain wine; or~~
2 ~~(d) Liners, caps, corks, closures, labels, and other items added~~
3 ~~externally or internally but otherwise separate from the structure of~~
4 ~~the bottle or container.~~

5 ~~(15)(a) "Plastic household cleaning and personal care product~~
6 ~~container" means a bottle, jug, or other rigid container with a neck~~
7 ~~or mouth narrower than the base, and:~~

8 ~~(i) A minimum capacity of eight fluid ounces or its equivalent~~
9 ~~volume;~~

10 ~~(ii) A maximum capacity of five fluid gallons or its equivalent~~
11 ~~volume;~~

12 ~~(iii) That is capable of maintaining its shape when empty;~~

13 ~~(iv) Comprised solely of one or multiple plastic resins; and~~

14 ~~(v) Containing a household cleaning or personal care product.~~

15 ~~(b) "Plastic household cleaning and personal care product~~
16 ~~container" does not include:~~

17 ~~(i) Refillable household cleaning and personal care product~~
18 ~~containers, such as containers that are sufficiently durable for~~
19 ~~multiple rotations of their original or similar purpose and are~~
20 ~~intended to function in a system of reuse; and~~

21 ~~(ii) Rigid plastic containers or plastic bottles that are medical~~
22 ~~devices, medical products that are required to be sterile, and~~
23 ~~nonprescription and prescription drugs, dietary supplements as~~
24 ~~defined in RCW 82.08.0293, and packaging used for those products.~~

25 ~~(16))~~ (7) "Plastic trash bag" means a bag that is made of
26 noncompostable plastic, is at least 0.70 mils thick, and is designed
27 and manufactured for use as a container to hold, store, or transport
28 materials to be discarded or recycled, and includes, but is not
29 limited to, a garbage bag, recycling bag, lawn or leaf bag, can liner
30 bag, kitchen bag, or compactor bag. "Plastic trash bag" does not
31 include any compostable bags meeting the requirements of chapter
32 70A.455 RCW.

33 ~~((17) "Plastic trash bag))~~ (8) "Certified PCRC product
34 manufacturing industry" means an association that represents
35 companies that manufacture ~~((plastic trash bags))~~ a certified PCRC
36 product.

37 ~~((18))~~ (9) "Postconsumer recycled content" means the content of
38 a ~~((covered product))~~ certified PCRC product made of recycled
39 materials derived specifically from recycled material generated by
40 households or by commercial, industrial, and institutional facilities

1 in their role as end users of a product that can no longer be used
2 for its intended purpose. "Postconsumer recycled content" includes
3 returns of material from the distribution chain.

4 ~~((19))~~ (10) (a) "Producer" means the following person
5 responsible for compliance with minimum postconsumer recycled content
6 requirements under this chapter for a ~~((covered product sold, offered~~
7 ~~for sale, or distributed in or into this state:~~

8 ~~(i) If the covered product is sold under the manufacturer's own~~
9 ~~brand or lacks identification of a brand, the producer is the person~~
10 ~~who manufactures the covered product;~~

11 ~~(ii) If the covered product is manufactured by a person other~~
12 ~~than the brand owner, the producer is the person who is the licensee~~
13 ~~of a brand or trademark under which a covered product is sold,~~
14 ~~offered for sale, or distributed in or into this state, whether or~~
15 ~~not the trademark is registered in this state, unless the~~
16 ~~manufacturer or brand owner of the covered product has agreed to~~
17 ~~accept responsibility under this chapter; or~~

18 ~~(iii) If there is no person described in (a) (i) and (ii) of this~~
19 ~~subsection over whom the state can constitutionally exercise~~
20 ~~jurisdiction, the producer is the person who imports or distributes~~
21 ~~the covered product in or into the state)) certified product sold,~~
22 ~~offered for sale, or distributed in or into this state:~~

23 (i) If the product is sold in or with packaging under the brand
24 of the product manufacturer or is sold in packaging that lacks
25 identification of a brand, the producer of the packaging is the
26 person that manufactures the product;

27 (ii) If the product is sold under a retail brand, the producer is
28 the retail brand owner;

29 (iii) If the product is manufactured by a person other than the
30 brand owner, the producer of the packaging is the person that is the
31 licensee of a brand or trademark under which a packaged item is used
32 in a commercial enterprise, sold, offered for sale, or distributed in
33 or into this state, whether or not the trademark is registered in
34 this state;

35 (iv) If there is no person described in (a) (i), (ii), or (iii) of
36 this subsection within the United States, the producer is the person
37 who imports the product into the United States for use in a
38 commercial enterprise that sells, offers for sale, or distributes the
39 product in this state; or

1 (v) A person who would be considered a "producer" of a certified
2 product sold, offered for sale, or distributed in or into this state,
3 as defined in (a) (i) through (iv) of this subsection, can designate
4 another responsible producer for that certified product if another
5 person agrees to accept responsibility and has registered as the
6 producer responsible for that certified product under this chapter.

7 (b) "Producer" does not include:

8 (i) Government ((agencies)) entities, municipalities, or other
9 political subdivisions of the state; or

10 (ii) Registered 501(c)(3) charitable organizations and 501(c)(4)
11 social welfare organizations(~~;~~~~or~~

12 ~~(iii) De minimis producers that annually sell, offer for sale,~~
13 ~~distribute, or import in or into the country for sale in Washington:~~

14 ~~(A) Less than one ton of a single category of plastic beverage~~
15 ~~containers, plastic household cleaning and personal care containers,~~
16 ~~or plastic trash bags each year; or~~

17 ~~(B) A single category of a covered product that in aggregate~~
18 ~~generates less than \$1,000,000 each year in revenue)).~~

19 ((~~20~~)) (11)(a) "Retail establishment" means any person,
20 corporation, partnership, business, facility, vendor, organization,
21 or individual that sells or provides merchandise, goods, or materials
22 directly to a customer.

23 (b) "Retail establishment" includes, but is not limited to, food
24 service businesses, grocery stores, department stores, hardware
25 stores, home delivery services, pharmacies, liquor stores,
26 restaurants, catering trucks, convenience stores, or other retail
27 stores or vendors, including temporary stores or vendors at farmers
28 markets, street fairs, and festivals.

29 ((~~21~~)) (12)(a) "Utensil" means a product designed to be used by
30 a consumer to facilitate the consumption of food or beverages,
31 including knives, forks, spoons, cocktail picks, chopsticks, splash
32 sticks, and stirrers.

33 (b) "Utensil" does not include plates, bowls, cups, and other
34 products used to contain food or beverages.

35 (13) "Certified postconsumer recycled content product" or
36 "certified PCRC product" means:

37 (a) Plastic household cleaning products or personal care
38 products, as defined in section 201 of this act, that are pesticide
39 products regulated by the federal insecticide, fungicide, and
40 rodenticide act, 7 U.S.C. Sec. 136 et seq., that are in direct

1 contact with the regulated product, and that are excluded from the
2 requirements of chapters 70A.--- (the new chapter created in section
3 601 of this act) and 70A.--- RCW (the new chapter created in section
4 602 of this act);

5 (b) Plastic trash bags; and

6 (c) Plastic plant pots and trays.

7 (14) "Plant pot or tray" means a single-use or durable container,
8 material transport tray, or water collection tray used to grow,
9 contain, cultivate, display, or transport plants or soil.

10 **Sec. 214.** RCW 70A.245.020 and 2021 c 313 s 3 are each amended to
11 read as follows:

12 ~~(1) ((a) Beginning January 1, 2023, producers that offer for~~
13 ~~sale, sell, or distribute in or into Washington:~~

14 ~~(i) Beverages other than wine in 187 milliliter plastic beverage~~
15 ~~containers and dairy milk in plastic beverage containers must meet~~
16 ~~minimum postconsumer recycled content requirements established under~~
17 ~~subsection (4) of this section; and~~

18 ~~(ii) Plastic trash bags must meet minimum postconsumer recycled~~
19 ~~content requirements established under subsection (6) of this~~
20 ~~section.~~

21 ~~(b) Beginning January 1, 2025, producers that offer for sale,~~
22 ~~sell, or distribute in or into Washington household cleaning and~~
23 ~~personal care products in plastic household cleaning and personal~~
24 ~~care product containers must meet minimum postconsumer recycled~~
25 ~~content as required under subsection (5) of this section.~~

26 ~~(c) Beginning January 1, 2028, producers that offer for sale,~~
27 ~~sell, or distribute in or into Washington wine in 187 milliliter~~
28 ~~plastic beverage containers or dairy milk in plastic beverage~~
29 ~~containers must meet minimum postconsumer recycled content as~~
30 ~~required under subsection (4) of this section.~~

31 ~~(2) (a) On or before April 1, 2022, and annually thereafter, a~~
32 ~~producer that offers for sale, sells, or distributes in or into~~
33 ~~Washington covered products must register with the department~~
34 ~~individually or through a third-party representative registering on~~
35 ~~behalf of a group of producers.~~

36 ~~(b) The registration information submitted to the department~~
37 ~~under this section must include a list of the producers of covered~~
38 ~~products and the brand names of the covered products represented in~~
39 ~~the registration submittal. Beginning April 1, 2024, for plastic~~

~~1 trash bags and plastic beverage containers other than wine in 187
2 milliliter plastic beverage containers and dairy milk in plastic
3 beverage containers, April 1, 2026, for plastic household and
4 personal care product containers, and April 1, 2029, for wine in 187
5 milliliter plastic beverage containers and dairy milk, a producer may
6 submit registration information at the same time as the information
7 submitted through the annual reporting required under RCW
8 70A.245.030.~~

~~9 (3) (a) By January 31, 2022, and every January 31st thereafter,
10 the department must:~~

~~11 (i) Prepare an annual workload analysis for public comment that
12 identifies the annual costs it expects to incur to implement,
13 administer, and enforce this section and RCW 70A.245.030 through
14 70A.245.060 and 70A.245.090 (1), (2), and (4), including rule making,
15 in the next fiscal year for each category of covered products;~~

~~16 (ii) Determine a total annual fee payment by producers or their
17 third-party representatives for each category of covered products
18 that is adequate to cover, but not exceed, the workload identified in
19 (a)(i) of this subsection;~~

~~20 (iii) Until rules are adopted under (a)(iv) of this subsection,
21 issue a general order to all entities falling within the definition
22 of producer. The department must equitably determine fee amounts for
23 an individual producer or third-party representatives within each
24 category of covered product;~~

~~25 (iv) By 2024, adopt rules to equitably determine annual fee
26 payments by producers or their third-party representatives within
27 each category of covered product. Once such rules are adopted, the
28 general order issued under (a)(iii) of this subsection is no longer
29 effective; and~~

~~30 (v) Send notice to producers or their third-party representatives
31 of fee amounts due consistent with either the general order issued
32 under (a)(iii) of this subsection or rules adopted under (a)(iv) of
33 this subsection.~~

~~34 (b) The department must:~~

~~35 (i) Apply any remaining annual payment funds from the current
36 year to the annual payment for the coming year, if the collected
37 annual payment exceeds the department's costs for a given year; and~~

~~38 (ii) Increase annual payments for the coming year to cover the
39 department's costs, if the collected annual payment was less than the
40 department's costs for a given year.~~

1 ~~(c) By April 1, 2022, and every April 1st thereafter, producers~~
2 ~~or their third-party representative must submit a fee payment as~~
3 ~~determined by the department under (a) of this subsection.~~

4 ~~(4) A producer of a beverage in a plastic beverage container must~~
5 ~~meet the following annual minimum postconsumer recycled content~~
6 ~~percentage on average for the total quantity of plastic beverage~~
7 ~~containers, by weight, that are sold, offered for sale, or~~
8 ~~distributed in or into Washington by the producer effective:~~

9 ~~(a) For beverages except wine in 187 milliliter plastic beverage~~
10 ~~containers and dairy milk:~~

11 ~~(i) January 1, 2023, through December 31, 2025: No less than 15~~
12 ~~percent postconsumer recycled content plastic by weight;~~

13 ~~(ii) January 1, 2026, through December 31, 2030: No less than 25~~
14 ~~percent postconsumer recycled content plastic by weight; and~~

15 ~~(iii) On and after January 1, 2031: No less than 50 percent~~
16 ~~postconsumer recycled content plastic by weight.~~

17 ~~(b) For wine in 187 milliliter plastic beverage containers and~~
18 ~~dairy milk:~~

19 ~~(i) January 1, 2028, through December 31, 2030: No less than 15~~
20 ~~percent postconsumer recycled content plastic by weight;~~

21 ~~(ii) January 1, 2031, through December 31, 2035: No less than 25~~
22 ~~percent postconsumer recycled content plastic by weight; and~~

23 ~~(iii) On and after January 1, 2036: No less than 50 percent~~
24 ~~postconsumer recycled content plastic by weight.~~

25 ~~(5)) A producer of household cleaning ((and)) or plastic~~
26 ~~personal care products that are pesticide products regulated by the~~
27 ~~federal insecticide, fungicide, and rodenticide act, 7 U.S.C. Sec.~~
28 ~~136 et seq. that are in direct contact with the regulated product and~~
29 ~~that are excluded from the requirements of chapters 70A.--- (the new~~
30 ~~chapter created in section 601 of this act) and 70A.--- RCW (the new~~
31 ~~chapter created in section 602 of this act) in plastic containers~~
32 ~~must meet the following annual minimum postconsumer recycled content~~
33 ~~percentage on average for the total quantity of plastic containers,~~
34 ~~by weight, that are sold, offered for sale, or distributed in or into~~
35 ~~Washington by the producer effective:~~

36 ~~(a) January 1, 2025, through December 31, 2027: No less than 15~~
37 ~~percent postconsumer recycled content plastic by weight;~~

38 ~~(b) January 1, 2028, through December 31, 2030: No less than 25~~
39 ~~percent postconsumer recycled content plastic by weight; and~~

1 (c) On and after January 1, 2031: No less than 50 percent
2 postconsumer recycled content plastic by weight.

3 ~~((+6))~~ (2) A producer of plastic trash bags must meet the
4 following annual minimum postconsumer recycled content percentage on
5 average for the total quantity of plastic trash bags, by weight, that
6 are sold, offered for sale, or distributed in or into Washington by
7 the producer effective:

8 (a) January 1, 2023, through December 31, 2024: No less than 10
9 percent postconsumer recycled content plastic by weight;

10 (b) January 1, 2025, through December 31, 2026: No less than 15
11 percent postconsumer recycled content plastic by weight; and

12 (c) On and after January 1, 2027: No less than 20 percent
13 postconsumer recycled content plastic by weight.

14 ~~((+7)(a) Beginning January 1, 2024, or when rule making is
15 complete, whichever is sooner, the department may, on an annual basis
16 on January 1st,))~~ (3) A producer of plastic plant pots or trays must
17 meet the following annual minimum postconsumer recycled content
18 percentage on average for the total quantity of covered products, by
19 weight, that are sold, offered for sale, or distributed in or into
20 Washington by the producer effective:

21 (a) January 1, 2026, through December 31, 2030: No less than 30
22 percent postconsumer recycled content plastic by weight;

23 (b) On and after January 1, 2031: No less than 80 percent
24 postconsumer recycled content plastic by weight.

25 (4)(a) By October 31st of each year, the department may review
26 and determine for the following year whether to adjust the minimum
27 postconsumer recycled content percentage (~~required for a type of~~
28 container or product or category of covered products)) pursuant to
29 subsection (~~((+4), (5), or (6))~~) (1), (2), or (3) of this section. The
30 department's review may be initiated by the department or at the
31 petition of a producer or (~~(a covered product))~~ the certified PCRC
32 product manufacturing industry not more than once annually. Petitions
33 for review and adjustment must be made to the department by June 30th
34 of the year prior to the year in which the adjustment would apply.
35 When submitting a petition, producers or (~~(a producer))~~ the certified
36 PCRC product manufacturing industry must provide necessary
37 information that will allow the department to make a determination
38 under (b) of this subsection.

39 (b) In making a determination pursuant to this subsection, the
40 department must consider, at a minimum, all of the following factors:

1 (i) Changes in market conditions, including supply and demand for
2 postconsumer recycled content plastics, collection rates, and bale
3 availability both domestically and globally;

4 (ii) Recycling rates;

5 (iii) The availability of recycled plastic suitable to meet the
6 minimum postconsumer recycled content requirements pursuant to
7 subsection ~~((4), (5), or (6))~~ (1), (2), or (3) of this section,
8 including the availability of high quality recycled plastic ~~((, and
9 food-grade recycled plastic from recycling programs))~~;

10 (iv) The capacity of recycling or processing infrastructure;

11 (v) The technical feasibility of achieving the minimum
12 postconsumer recycled content requirements in covered products that
13 are regulated under 21 C.F.R., chapter I, subchapter G, 7 U.S.C. Sec.
14 136, 15 U.S.C. Sec. 1471-1477, 49 C.F.R. Sec. 178.33b, 49 C.F.R. Sec.
15 173, 40 C.F.R. Sec. 152.10, 15 U.S.C. Sec. 1261-1278, 49 U.S.C. 5101
16 et seq., 49 C.F.R. Sec. 178.509, 49 C.F.R. Sec. 179.522, 49 C.F.R.
17 Sec. 178.600-609, and other federal laws; and

18 (vi) The progress made by producers in achieving the goals of
19 this section.

20 (c) Under (a) of this subsection ~~((~~

21 ~~(i) The department may not adjust the minimum postconsumer
22 recycled content requirements above the minimum postconsumer recycled
23 content percentages for the year under review required pursuant to
24 subsection (4), (5), or (6) of this section.~~

25 ~~(ii) For plastic household cleaning and personal care product
26 containers, the department may not adjust the minimum postconsumer
27 recycled content requirements above the minimum postconsumer recycled
28 content percentages for the year under review required pursuant to
29 subsection (5) of this section or below a minimum of 10 percent.~~

30 ~~(iii) For plastic trash bags), the department may not adjust the
31 minimum postconsumer recycled content requirements above the minimum
32 postconsumer recycled content percentages for the year under review
33 required pursuant to subsection ~~((6))~~ (1), (2), or (3) of this
34 section or below the minimum percentage required in subsection
35 ~~((6))~~ (1)(a), (2)(a), or (3)(a) of this section.~~

36 (d) A producer or the certified PCRC product manufacturing
37 industry ~~((for a covered product))~~ may appeal a decision by the
38 department to adjust postconsumer recycled content percentages under
39 (a) of this subsection or to temporarily exclude covered products
40 from minimum postconsumer recycled content requirements ~~((under~~

1 ~~subsection (8) of this section~~) to the pollution control hearings
2 board within 30 days of the department's determination.

3 ~~((8))~~ (5) The department must temporarily exclude from minimum
4 postconsumer recycled content requirements for the upcoming year any
5 types of covered products in plastic containers for which a producer
6 annually demonstrates to the department by December 31st of a given
7 year that the achievement of postconsumer recycled content
8 requirements in the container material is not technically feasible in
9 order to comply with health or safety requirements of federal law,
10 including the federal laws specified in subsection (7)(b)(v) of this
11 section. A producer must continue to register and report consistent
12 with the requirements of this chapter for covered products
13 temporarily excluded from minimum postconsumer recycled content
14 requirements under this subsection.

15 ~~((9))~~ (6) A producer that does not achieve the postconsumer
16 recycled content requirements established under this section or does
17 not comply with the labeling requirements established in chapter
18 70A.245 RCW is subject to penalties established in RCW 70A.245.040.

19 ~~((10))~~ (7)(a) A city, town, county, or municipal corporation
20 may not implement local recycled content requirements for ~~((a-covered~~
21 ~~product that is))~~ certified PCRC products that are subject to minimum
22 postconsumer recycled content requirements established in this
23 section.

24 (b) A city, town, county, or municipal corporation may establish
25 local purchasing requirements that include recycled content standards
26 that exceed the minimum recycled content requirements established by
27 this chapter for ~~((plastic household cleaning and personal care~~
28 ~~product containers or plastic trash bags))~~ certified PCRC products
29 purchased by a city, town, or municipal corporation, or its
30 contractor.

31 ~~((11) The department may enter into contracts for the services~~
32 ~~required to implement this chapter and related duties of the~~
33 ~~department.~~

34 ~~(12))~~ (8) In-state distributors, wholesalers, and retailers in
35 possession of ~~((covered products))~~ certified PCRC products
36 manufactured before the date that postconsumer recycled content
37 requirements become effective may exhaust their existing stock
38 through sales to the public.

1 **Sec. 215.** RCW 70A.245.030 and 2021 c 313 s 4 are each amended to
2 read as follows:

3 ~~(1) ((a) Except as provided in (b) and (c) of this subsection,~~
4 ~~beginning April 1, 2024, each producer of covered products,~~
5 ~~individually or through a third party representing a group of~~
6 ~~producers, must provide an annual report to the department that~~
7 ~~includes the amount in pounds of virgin plastic and the amount in~~
8 ~~pounds of postconsumer recycled content by resin type used for each~~
9 ~~category of covered products that are sold, offered for sale, or~~
10 ~~distributed in or into Washington state, including the total~~
11 ~~postconsumer recycled content resins as a percentage of total weight.~~
12 ~~The report must be submitted in a format and manner prescribed by the~~
13 ~~department. A manufacturer may submit national data allocated on a~~
14 ~~per capita basis for Washington to approximate the information~~
15 ~~required in this subsection if the producer or third-party~~
16 ~~representative demonstrates to the department that state level data~~
17 ~~are not available or feasible to generate.~~

18 ~~(b) The requirements of (a) of this subsection apply to household~~
19 ~~cleaning and personal care products in plastic containers beginning~~
20 ~~April 1, 2026.~~

21 ~~(c) The requirements of (a) of this subsection apply to wine in~~
22 ~~187 milliliter plastic beverage containers and dairy milk in plastic~~
23 ~~beverage containers beginning April 1, 2029.~~

24 ~~(d) The department must post the information reported under this~~
25 ~~subsection on its website, except as provided in subsection (2) of~~
26 ~~this section)) A plastic trash bag producer must maintain a~~
27 ~~certificate of compliance, conducted by a third-party certification~~
28 ~~entity, stating that a plastic trash bag is in compliance with the~~
29 ~~labeling requirements of RCW 70A.245.060 and the postconsumer~~
30 ~~recycled content requirements of RCW 70.245.020. A producer of other~~
31 ~~certified PCRC products must maintain a certificate of compliance~~
32 ~~stating that the certified PCRC product is in compliance with the~~
33 ~~postconsumer recycled content requirements of RCW 70A.245.020. A~~
34 ~~third-party certification entity must be an independent, accredited~~
35 ~~(ISO/IEC 17065) certifying body.~~

36 (2) A producer ~~((that submits information or records to the~~
37 ~~department under this chapter may request that the information or~~
38 ~~records be made available only for the confidential use of the~~
39 ~~department, the director, or the appropriate division of the~~
40 ~~department. The director of the department must give consideration to~~

1 ~~the request and if this action is not detrimental to the public~~
2 ~~interest and is otherwise in accordance with the policies and~~
3 ~~purposes of chapter 43.21A RCW, the director must grant the request~~
4 ~~for the information to remain confidential as authorized in RCW~~
5 ~~43.21A.160)) shall develop a compliance certificate by the dates on~~
6 ~~which the postconsumer recycled content requirements in RCW~~
7 ~~70A.245.020 take effect for the producer's certified PCRC products.~~

8 (3) If compliance with minimum recycled content requirements is
9 achieved through an adjustment made pursuant to RCW 70A.245.020(4),
10 the certificate must state the specific basis upon which the
11 exemption is claimed.

12 (4)(a) The certificate of compliance must be signed by an
13 authorized official of the producer.

14 (b) The certificate of compliance must be kept on file by the
15 producer for three years from the date of the last sale or
16 distribution by the producer.

17 (c) A producer must furnish a certificate of compliance to the
18 department upon request within 60 days.

19 (d) Requests from a member of the public for any certificate of
20 compliance must be made in writing to the department and must be
21 specific as to the certified PCRC product information requested. The
22 department must respond to requests from a member of the public under
23 this subsection within 90 days.

24 (e) If manufacturers are required under any other state statute,
25 including chapter 70A.222 RCW, to provide a certificate of
26 compliance, one certificate may be developed containing all required
27 information.

28 (f) If the producer of the certified PCRC product reformulates or
29 creates a new certified PCRC product, the producer shall develop an
30 amended or new certificate of compliance for the reformulated or new
31 certified PCRC product.

32 **Sec. 216.** RCW 70A.245.040 and 2021 c 313 s 5 are each amended to
33 read as follows:

34 (1) ~~((a) A producer that does not meet the minimum postconsumer~~
35 ~~recycled content requirements pursuant to RCW 70A.245.020 is subject~~
36 ~~to a penalty pursuant to this section. Beginning June 1st of the year~~
37 ~~following the first year that minimum postconsumer recycled product~~
38 ~~content requirements apply to a category of covered product, the~~
39 ~~penalty must be calculated consistent with subsection (2) of this~~

1 ~~section unless a penalty reduction or corrective action plan has been~~
2 ~~approved pursuant to subsection (3) of this section.~~

3 ~~(b) A producer that is assessed a penalty pursuant to this~~
4 ~~section may pay the penalty to the department in one payment, in~~
5 ~~quarterly installments, or arrange an alternative payment schedule~~
6 ~~subject to the approval of the department, not to exceed a 12-month~~
7 ~~payment schedule unless the department determines an extension is~~
8 ~~needed due to unforeseen circumstances, such as a public health~~
9 ~~emergency, state of emergency, or natural disaster.~~

10 ~~(2) Beginning June 1st of the year following the first year that~~
11 ~~minimum postconsumer recycled product content requirements apply to a~~
12 ~~category of covered product, and annually thereafter, the department~~
13 ~~shall determine the penalty for the previous calendar year based on~~
14 ~~the postconsumer recycled content requirement of the previous~~
15 ~~calendar year. The department shall calculate the amount of the~~
16 ~~penalty based upon the amounts in pounds in the aggregate of virgin~~
17 ~~plastic, postconsumer recycled content plastic, and any other plastic~~
18 ~~per category used by the producer to produce covered products sold or~~
19 ~~offered for sale in or into Washington state, in accordance with the~~
20 ~~following:~~

21 ~~(a) (i) The annual penalty amount assessed to a producer must~~
22 ~~equal the product of both of the following: The total pounds of~~
23 ~~plastic used per category multiplied by the relevant minimum~~
24 ~~postconsumer recycled plastic target percentage, less the pounds of~~
25 ~~total plastic multiplied by the percent of postconsumer recycled~~
26 ~~plastic used; multiplied by 20 cents.~~

27 ~~(ii) Example: [(Total pounds of plastic used x minimum~~
28 ~~postconsumer recycled plastic target percentage) - (Total pounds of~~
29 ~~plastic used x postconsumer recycled plastic percentage used)] x 20~~
30 ~~cents.~~

31 ~~(b) For the purposes of (a) of this subsection, both of the~~
32 ~~following apply:~~

33 ~~(i) The total pounds of plastic used must equal the sum of the~~
34 ~~amount of virgin plastic, postconsumer recycled content plastic, and~~
35 ~~any other plastic used by the producer, as reported pursuant to RCW~~
36 ~~70A.245.030.~~

37 ~~(ii) If the product calculated pursuant to (a) of this subsection~~
38 ~~is equal to or less than zero, the department may not assess a~~
39 ~~penalty.~~

1 ~~(3) (a) (i) The department shall consider granting a reduction of~~
2 ~~penalties assessed pursuant to this section for the purpose of~~
3 ~~meeting the minimum postconsumer recycled content requirements~~
4 ~~required pursuant to RCW 70A.245.020.~~

5 ~~(ii) In determining whether to grant the reduction pursuant to~~
6 ~~(a) (i) of this subsection, the department shall consider, at a~~
7 ~~minimum, all of the following factors:~~

8 ~~(A) Anomalous market conditions;~~

9 ~~(B) Disruption in, or lack of supply of, recycled plastics; and~~

10 ~~(C) Other factors that have prevented a producer from meeting the~~
11 ~~requirements.~~

12 ~~(b) In lieu of or in addition to assessing a penalty under this~~
13 ~~section, the department may require a producer to submit a corrective~~
14 ~~action plan detailing how the producer plans to come into compliance~~
15 ~~with RCW 70A.245.020.~~

16 ~~(4) For the purposes of determining compliance with the~~
17 ~~postconsumer recycled content requirements of this chapter, the~~
18 ~~department may consider the date of manufacture of a covered product~~
19 ~~or the container of a covered product.~~

20 ~~(5) A producer shall pay the penalty assessed pursuant to this~~
21 ~~section, as applicable, based on the information reported to the~~
22 ~~department as required under RCW 70A.245.030 in the form and manner~~
23 ~~prescribed by the department.~~

24 ~~(6)) (a) The department may assess a civil penalty to a producer~~
25 ~~in violation of the requirements of RCW 70A.245.020, 70A.245.030, or~~
26 ~~70A.245.060 in the amount of up to \$2,000 for the first violation of~~
27 ~~this chapter, up to \$5,000 for the second violation of this chapter,~~
28 ~~and up to \$10,000 for the third and any subsequent violation of RCW~~
29 ~~70A.245.020, 70A.245.030, or 70A.245.060.~~

30 ~~(b) A specific violation is deemed to have occurred upon the sale~~
31 ~~of noncompliant product by stock-keeping unit number or unique item~~
32 ~~number. The repeated sale of the same noncompliant product by stock-~~
33 ~~keeping unit number or unique item number is considered a single~~
34 ~~violation.~~

35 ~~(2) In addition to the penalties authorized under subsection (1)~~
36 ~~of this section, the department may prohibit the sale of any~~
37 ~~certified PCRC products for which a manufacturer has failed to~~
38 ~~respond to a request by the department for a certificate of~~
39 ~~compliance within 60 days.~~

1 (3) For the purposes of determining compliance with the
2 postconsumer recycled content requirements of this chapter, the
3 department may consider the date of manufacture of a certified PCRC
4 product.

5 (4) A producer may appeal the penalty assessed under this section
6 to the pollution control hearings board within 30 days of assessment.

7 ~~((7))~~ (5) Penalties collected under this section must be
8 deposited in the recycling enhancement account created in RCW
9 70A.245.100.

10 **Sec. 217.** RCW 70A.245.090 and 2021 c 313 s 12 are each amended
11 to read as follows:

12 (1) ~~((The department may conduct audits and investigations for~~
13 ~~the purpose of ensuring compliance with RCW 70A.245.020 and~~
14 ~~70A.245.040 based on the information reported under RCW 70A.245.030.~~

15 ~~(2) The department shall annually publish a list of registered~~
16 ~~producers of covered products and associated brand names, their~~
17 ~~compliance status, and other information the department deems~~
18 ~~appropriate on the department's website.~~

19 ~~(3))~~ To assist regulated parties with the requirements specified
20 under RCW 70A.245.070 and 70A.245.080, the department:

21 (a) Must prepare and post on its website information regarding
22 the prohibitions on the sale and distribution of expanded polystyrene
23 products as specified under RCW 70A.245.070 and restrictions on the
24 provision of optional serviceware under RCW 70A.245.080;

25 (b) For education and outreach to help implement RCW 70A.245.070
26 and 70A.245.080, may develop culturally appropriate and translated
27 educational materials and resources for the state's diverse ethnic
28 populations from existing materials used by local jurisdictions and
29 other states.

30 ~~((4))~~ (2) The department may adopt rules as necessary to
31 administer, implement, and enforce this chapter.

32 **Sec. 218.** RCW 70A.245.100 and 2021 c 313 s 13 are each amended
33 to read as follows:

34 The recycling enhancement account is created in the custody of
35 the state treasurer. All penalties collected by the department
36 pursuant to RCW 70A.245.040 ~~((and))~~, 70A.245.050, and sections 123,
37 211, and 319 must be deposited in the account. Only the director of
38 the department or the director's designee may authorize expenditures

1 from the account. The account is subject to the allotment procedures
2 under chapter 43.88 RCW, but an appropriation is not required for
3 expenditures. Expenditures from the account may be used by the
4 department only for providing grants to local governments for the
5 purpose of supporting local solid waste and financial assistance
6 programs.

7 **Sec. 219.** RCW 70A.245.120 and 2021 c 313 s 15 are each amended
8 to read as follows:

9 (1) Subject to the availability of amounts appropriated for this
10 specific purpose prior to January 1, 2028, the department shall
11 contract with a research university or an independent third-party
12 consultant to study the plastic resin markets for all of the
13 following:

14 (a) Analyzing market conditions and opportunities in the state's
15 recycling industry for meeting the minimum postconsumer recycled
16 content requirements for (~~covered products~~) certified PCRC products
17 pursuant to RCW 70A.245.020 and 70A.245.030 for products subject to
18 minimum postconsumer recycled content requirements under chapter
19 70A.--- RCW (the new chapter created in section 601 of this act); and

20 (b) Determining the data needs and tracking opportunities to
21 increase the transparency and support of a more effective, fact-based
22 public understanding of the recycling industry.

23 (2) If funding is provided pursuant to subsection (1) of this
24 section and the department undertakes the study, the study must be
25 completed by May 1, 2029. The requirements of this section may be
26 satisfied through a needs assessment as described in section 105(6)
27 of this act.

28 (3) This section expires July 1, 2029.

29 **Sec. 220.** RCW 70A.245.060 and 2021 c 313 s 7 are each amended to
30 read as follows:

31 (1) Beginning January 1, 2023, producers shall label each package
32 containing plastic trash bags sold, offered for sale, or distributed
33 in or into Washington with:

34 (a) The name of the producer and the city, state, and country
35 where the producer is located, which may be designated as the
36 location of the producer's corporate headquarters, and, beginning
37 January 1, 2025, the percentage of postconsumer recycled content that
38 the plastic trash bag contains; or

1 (b) A uniform resource locator or quick response code to an
2 internet website that contains the information required pursuant to
3 (a) of this subsection.

4 (2)(a) The provisions of subsection (1) of this section do not
5 apply to a plastic bag that is designed and manufactured to hold,
6 store, or transport dangerous waste or biomedical waste.

7 (b) For the purposes of this subsection:

8 (i) "Biomedical waste" means any waste defined as that term under
9 RCW 70A.228.010; and

10 (ii) "Dangerous waste" means any waste defined as dangerous
11 wastes under RCW 70A.300.010.

12 **Part Three**

13 **Reimbursable Deposit Program Standards (Beverage Container Deposit** 14 **Program Provisions)**

15 NEW SECTION. **Sec. 301.** DEFINITIONS. The definitions in this
16 section and section 102 of this act apply throughout this chapter
17 unless the context clearly requires otherwise.

18 (1) "Dealer" has the same meaning as "retail establishment" as
19 that term is defined in section 102 of this act.

20 (2) "Department" means the department of ecology.

21 (3) "Deposit return system" means a beverage container redemption
22 program that pays a per unit refund value to consumers for qualifying
23 beverage containers and collects and processes qualifying beverage
24 containers as described in section 310 of this act.

25 (4) "Distributor" means every person or entity who engages in the
26 sale of beverages in beverage containers to a dealer in this state,
27 including any producer who engages in such sales, and dealers who
28 self-distribute their own brands.

29 (5) "Distributor responsibility organization" means an individual
30 distributor or a producer responsibility organization formed as a
31 cooperative association as defined under chapter 23.86 RCW, or an
32 alternative structure as approved by the department, that is
33 designated by a group of distributors representing the majority of
34 beverages sold in qualifying beverage containers in the state, to
35 develop and carry out the activities required of distributors by this
36 chapter.

37 (6) "Qualifying beverage container" means beverage containers as
38 described in section 303 of this act.

1 NEW SECTION. **Sec. 302.** RELATIONSHIP WITH CHAPTER 70A.--- RCW
2 (THE NEW CHAPTER CREATED IN SECTION 601 OF THIS ACT). (1) As an
3 alternative to satisfying its compliance obligation under chapter
4 70A.--- RCW (the new chapter created in section 601 of this act) for
5 the qualifying beverage containers of participating producers, a
6 producer responsibility organization is not required to consider
7 qualifying beverage containers to be covered products for purposes of
8 chapter 70A.--- RCW (the new chapter created in section 601 of this
9 act) upon a distributor responsibility organization's establishment
10 and operation of a deposit return system for the qualifying beverage
11 containers described in section 303 of this act.

12 (2) This chapter, related to the establishment of a deposit
13 return system, establishes requirements for the management of the
14 containers described in section 303 of this act.

15 (3) (a) The requirements of sections 303 through 319 of this act
16 do not apply to qualifying beverage containers unless and until a
17 distributor responsibility organization, other than a single
18 distributor acting as a distributor responsibility organization, is
19 established and files a written notice with the department at the
20 time of producer responsibility organization registration under
21 chapter 70A.--- RCW (the new chapter created in section 601 of this
22 act), that the distributor responsibility organization will establish
23 and operate a deposit return system.

24 (b) Upon the receipt of the written notice by the department
25 under (a) of this subsection, all qualifying beverage containers of
26 all producers subject to the requirements of chapter 70A.--- RCW (the
27 new chapter created in section 601 of this act) cease to be
28 considered covered products for purposes of chapter 70A.--- RCW (the
29 new chapter created in section 601 of this act) and are instead
30 subject to the requirements of this chapter.

31 (c) Nothing in this section excludes packaging associated with
32 qualifying beverage containers, other than the qualifying beverage
33 container itself, from the requirements of chapter 70A.--- RCW (the
34 new chapter created in section 601 of this act).

35 NEW SECTION. **Sec. 303.** QUALIFYING BEVERAGE CONTAINERS. (1)
36 Sections 301 through 319 of this act apply to: Except as provided in
37 subsection (2) of this section, any individual, separate, sealed
38 glass, metal, or plastic bottle or can, except for a carton, foil
39 pouch, drink box, or metal container that requires a tool to be

1 opened, that contains any beverage intended for human consumption and
2 in a quantity of less than or equal to two and one-half gallons.

3 (2) The requirements of this chapter do not apply to dairy milk,
4 infant formula, or beverages excluded from the requirements of this
5 chapter by rules adopted by the department.

6 NEW SECTION. **Sec. 304.** DISTRIBUTOR RESPONSIBILITY ORGANIZATION—
7 CREATION AND REGISTRATION. (1)(a) Each distributor that offers for
8 sale, sells, or distributes in or into Washington qualifying beverage
9 containers must either join a distributor responsibility organization
10 or must independently fulfill the duties of a distributor
11 responsibility organization. This requirement takes effect four
12 months after a producer responsibility organization or a distributor
13 responsibility organization, other than a single distributor acting
14 as a distributor responsibility organization, notifies the department
15 of its intent to operate a deposit return program under section 302
16 of this act.

17 (b) A distributor that has not joined a distributor
18 responsibility organization or that does not independently fulfill
19 the duties of a distributor responsibility organization may not sell,
20 distribute, make available for sale, or otherwise supply beverages in
21 qualifying beverage containers in or into Washington three months
22 after the date specified in (a) of this subsection. A distributor
23 that operates in violation of this requirement is subject to
24 penalties as described in section 319 of this act.

25 (2)(a) To qualify as a distributor responsibility organization
26 and be approved by the department as described in section 307 of this
27 act, a distributor responsibility organization must demonstrate to
28 the department's satisfaction that its member distributors
29 distributed the majority of beverages in qualifying beverage
30 containers sold or made available for sale in the state during the
31 most recent year for which such distribution data are available.

32 (b) A distributor responsibility organization that implements or
33 proposes to implement a plan under this chapter may not include on
34 its board of directors or other governing structure, or otherwise be
35 governed by, representatives or affiliates of any public or private
36 entities that submit bids to perform work for the distributor
37 responsibility organization or that contract with the distributor
38 responsibility organization.

1 (3) (a) By the date specified in subsection (1)(a) of this
2 section, a distributor responsibility organization and any
3 distributors independently fulfilling the requirements of this
4 chapter must register with the department and must submit with its
5 registration the following information:

6 (i) A list of the member distributors of the distributor
7 responsibility organization, their brands of beverages distributed by
8 the distributor or member distributors of the distributor
9 responsibility organization, members of the board of directors or
10 other governing structure of the distributor responsibility
11 organization, and a description, including the materials, of the
12 qualifying beverage containers; and

13 (ii) The total gross sales volume of beverages in qualifying
14 beverage containers distributed by the distributor or the member
15 distributors in Washington during the most recent year for which such
16 data are available.

17 (b) If there are changes to the list of member distributors,
18 distributed brands, or members of the board of directors or other
19 governing structure of the distributor responsibility organization by
20 the end of a given quarter, the distributor responsibility
21 organization must submit an updated list to the department within 30
22 days of the end of that quarter.

23 (4) Until a distributor responsibility organization begins to
24 submit annual reports as specified in section 311 of this act, by
25 January 15th of each year, beginning the year after distributor
26 responsibility organization registration, a distributor
27 responsibility organization must submit the following data for the
28 prior calendar year:

29 (a) A list of its member distributors and their brands of
30 beverages in qualifying beverage containers; and

31 (b) The number of qualifying beverage containers sold or made
32 available for sale in the state, by material category and size. A
33 distributor responsibility organization may rely on member reporting
34 for the reporting requirements in this subsection. The number of any
35 qualifying beverage containers that are reusable or compostable must
36 each be reported separately from the number of other types of
37 qualifying beverage containers.

38 (5) By December 31st of the year of initial distributor
39 responsibility organization registration and every December 31st
40 thereafter, a distributor responsibility organization registered with

1 the department must submit an annual payment to the department to
2 fund the following costs:

3 (a) The cost to implement, administer, and enforce this chapter,
4 including rule making;

5 (b) One-half of the costs for the support and facilitation of the
6 advisory council created in section 120 of this act; and

7 (c) One-half of the costs for a new or updated performance rates
8 study under section 105 of this act.

9 (6) Within 180 days of the adoption of rules related to this
10 chapter, a distributor responsibility organization registered with
11 the department as described in section 307 of this act must submit a
12 plan to the department that meets the requirements of a deposit
13 return system plan as specified in section 309 of this act.

14 (7) A distributor responsibility organization registered with the
15 department must implement a deposit return system, as specified in
16 section 310 of this act, no later than two years after registration
17 with the department.

18 (8) A distributor responsibility organization registered with the
19 department may require deposits to be collected to offset the refund
20 value up to 30 days prior to the start of the deposit return system.

21 (9) A distributor responsibility organization must respond, in
22 writing, to the written comments and recommendations of the advisory
23 council created in section 120 of this act within 60 days of receipt.

24 (10) A distributor responsibility organization that submits
25 information or records to the department under this chapter may
26 request that the information or records be made available only for
27 the confidential use of the department, the director of the
28 department, or the appropriate division of the department. The
29 director of the department must give consideration to the request and
30 if this action is not detrimental to the public interest and is
31 otherwise in accordance with the policies and purposes of chapter
32 43.21A RCW, the director must grant the request for the information
33 to remain confidential as authorized in RCW 43.21A.160.

34 (11)(a) A distributor responsibility organization may not use
35 unclaimed deposits, commodity sale revenues from collected materials,
36 or other funds collected for purposes of implementing a plan required
37 under this chapter for costs associated with:

38 (i) The payment of an administrative penalty levied under this
39 chapter;

1 (ii) Administrative appeals of orders or penalties issued under
2 this chapter;

3 (iii) Litigation between the distributor responsibility
4 organization and the state;

5 (iv) Compensation of a person whose position is primarily
6 representing the distributor responsibility organization relative to
7 the passage, defeat, approval, or modification of legislation that is
8 being considered by a government entity; or

9 (v) Paid advertisements related to encouraging the passage,
10 defeat, or approval, or modification of legislation that is being
11 considered during an upcoming or current legislative session or was
12 considered during the previous legislative session.

13 (b) Nothing in this section limits the authority of a distributor
14 responsibility organization to collect funds, such as through a
15 special assessment, for purposes other than implementing a plan
16 required under this chapter, such as for the purposes identified in
17 (a)(i) through (v) of this subsection.

18 NEW SECTION. **Sec. 305.** REFUND VALUE. (1) Except as provided in
19 subsection (2) of this section, every qualifying beverage container
20 sold or offered for sale in this state must have a refund value of 10
21 cents.

22 (2) The department must determine, by rule, an additional premium
23 refund value consistent with section 309(2)(c) of this act, after
24 soliciting input from the advisory council created in section 120 of
25 this act.

26 NEW SECTION. **Sec. 306.** INDICATION OF REFUND VALUE. (1) Every
27 beverage container sold or offered for sale in this state by a dealer
28 must clearly indicate by embossing or by a stamp, or by a label or
29 other method securely affixed to the beverage container, the refund
30 value of the container, as determined by rule adopted by the
31 department. The indication of the refund value need not identify the
32 amount of the additional refund value premium specified in section
33 309(2)(c) of this act.

34 (2) A beverage container for wine may satisfy the requirement to
35 indicate the refund value of the container under subsection (1) of
36 this section through the use of a quick response code.

1 NEW SECTION. **Sec. 307.** DEPARTMENT DUTIES. (1) The department
2 must implement, administer, and enforce this chapter. The department
3 may adopt rules to implement, administer, and enforce this chapter.

4 (2)(a) By September 1st of each year after a distributor
5 responsibility organization has notified the department of its intent
6 to implement a deposit return system under section 302 of this act,
7 the department must:

8 (i) Prepare a workload analysis that identifies the projected
9 annual costs to implement, administer, and enforce this chapter,
10 including rule making, in the next fiscal year;

11 (ii) Determine a total annual fee payment to be paid by each
12 distributor responsibility organization consistent with section
13 304(5) of this act that is adequate to cover, but not exceed, the
14 costs identified in (a)(i) of this subsection and one-half of the
15 costs of:

16 (A) Any performance rates studies or updates, as established in
17 section 105 of this act; and

18 (B) Support and facilitation of the advisory council created in
19 section 120 of this act;

20 (iii) Until rules are adopted under (a)(iv) of this subsection,
21 issue a general order to all registered distributor responsibility
22 organizations. The department must equitably determine fee amounts
23 for distributor responsibility organizations;

24 (iv) By 2026, adopt rules to equitably determine annual fee
25 payments by distributor responsibility organizations. Once these
26 rules are adopted, the general order issued under (a)(iii) of this
27 subsection is no longer effective; and

28 (v) Send notice to distributor responsibility organizations of
29 fee amounts due consistent with either the general order issued under
30 (a)(iii) of this subsection or rules adopted under (a)(iv) of this
31 subsection.

32 (b) The department must:

33 (i) Apply any remaining annual payment funds from the current
34 year to the annual payment for the coming fiscal year, if the
35 collected annual payment exceeds the costs identified under (a)(ii)
36 of this subsection for a given year; and

37 (ii) Increase annual required payments for the coming fiscal year
38 to cover the costs identified under (a)(ii) of this subsection, if
39 the collected annual payment was less than the amount required to
40 cover those costs for a given year.

1 (3) The department shall approve the registration of a
2 distributor responsibility organization submitted pursuant to section
3 304 of this act whose initial membership at the time of registration
4 represents, to the department's satisfaction, the distributors of a
5 majority of beverages in qualifying beverage containers sold or made
6 available for sale in Washington the prior year or the registration
7 of a distributor acting as a distributor responsibility organization.
8 Except for an individual distributor fulfilling the distributor
9 responsibility organization, the department may not approve the
10 registration of a distributor responsibility organization whose
11 initial membership at the time of registration does not represent the
12 distributors of a majority of beverages in qualifying beverage
13 containers sold or made available for sale in Washington the prior
14 year.

15 (4) The department must review new, updated, and revised plans
16 submitted by distributor responsibility organizations as required in
17 section 309 of this act. The department must:

18 (a) Make new, updated, and revised plans available for public
19 review and comment for at least 30 days prior to the department's
20 approval decision;

21 (b) Review new, updated, and revised distributor responsibility
22 organization plans within 120 days of receipt of a complete plan;

23 (c) Make a determination as to whether or not to approve a plan,
24 plan update, or plan revision and notify the distributor
25 responsibility organization of the:

26 (i) Determination of approval if a plan provides for a program
27 that meets the requirements of this chapter, taking into
28 consideration comments received under (a) of this subsection; or

29 (ii) Reasons for not approving a plan. The distributor
30 responsibility organization must submit a new or revised plan within
31 60 days after receipt of the letter of disapproval. In the event that
32 a new or revised plan submitted by a distributor responsibility
33 organization does not sufficiently meet the requirements of this
34 chapter, including any deficiencies identified in the initial letter
35 of disapproval, the department may:

36 (A) Use the enforcement powers specified in section 319 of this
37 act; or

38 (B) Amend the contents of the insufficient new or revised plan in
39 a manner that ensures that the plan meets the requirements of this

1 chapter and the department may require the distributor responsibility
2 organization to implement the plan as amended by the department;

3 (d) The approval of a plan by the department does not relieve
4 distributors participating in the plan from responsibility for
5 fulfilling the requirements of this chapter.

6 (5) The department must review annual reports submitted by
7 distributor responsibility organizations as required in section 311
8 of this act. The department must:

9 (a) Make annual reports available for public review and comment
10 for at least 30 days upon the receipt of the annual report by the
11 department;

12 (b) Review within 120 days of receipt of a complete annual
13 report;

14 (c) Make a determination as to whether or not an annual report
15 meets the requirements of section 311 of this act and notify the
16 producer responsibility organization of the:

17 (i) Determination of approval of the annual report; or

18 (ii) Reasons for not approving the annual report. The distributor
19 responsibility organization must submit a revised annual report
20 within 60 days after receipt of the letter of disapproval;

21 (d) Notify a distributor responsibility organization if the
22 annual report demonstrates that the program and activities to
23 implement the plan fail to achieve the performance rates approved by
24 the department or otherwise fail to achieve significant requirements
25 under this chapter.

26 (6) In order to determine compliance with this chapter, the
27 department may review the records of a distributor responsibility
28 organization.

29 (7) If in the course of a review described in subsection (6) of
30 this section the department determines that an audit of a distributor
31 responsibility organization is necessary to verify the redemption
32 rate, the department shall require the distributor responsibility
33 organization to retain an independent audit firm to determine the
34 accuracy of the redemption rate. A distributor responsibility
35 organization that is subject to review must pay the costs of the
36 audit.

37 (8) (a) The department shall create and administer a curbside
38 revenue augmentation fund which must, for the first five years in
39 which a distributor responsibility organization operates a deposit
40 return system in the state:

1 (i) Collect funds from a distributor responsibility organization
2 as described in this section; and

3 (ii) Beginning January 1st of the year following the year in
4 which a distributor responsibility organization first operates a
5 deposit return system in the state, and each January 1st for the
6 following four years, accept requests annually from local
7 governments, or operators of curbside recycling programs in the
8 state, or both, to receive funds from the curbside revenue
9 augmentation fund to offset revenue losses from the previous year.
10 These requests must include third-party audited financial data
11 demonstrating any revenue losses from the value of scrap materials
12 diverted from curbside recycling by a deposit return system, less any
13 decreased operating costs from not collecting, hauling, processing,
14 or landfilling the material. Each request must include the average
15 per household weight of material by type (glass, plastic, and metal)
16 for that applicant for the five years preceding the operation of a
17 deposit return system in the state, compared to the average household
18 weight of material by type for the year prior to the year in which
19 funds are requested.

20 (b) The department shall:

21 (i) Evaluate all requests annually and determine the validity of
22 the data submitted by each requester;

23 (ii) Reject requests that do not include sufficient or
24 sufficiently accurate data;

25 (iii) Distribute funds to operators of curbside recycling systems
26 proportionally, based on valid requests and available revenue in the
27 fund; and

28 (iv) If the total amount of requests deemed valid by the
29 department is less than the amount of funds available each year, less
30 the department's program funding described in subsection (2) of this
31 section, the department shall remit the remaining balance back to the
32 distributor responsibility organization.

33 NEW SECTION. **Sec. 308.** REUSE AND RECYCLING PERFORMANCE
34 REQUIREMENTS. (1) To meet the reuse and recycling performance
35 requirements established in this section, a distributor
36 responsibility organization must:

37 (a) Demonstrate that all qualifying beverage containers
38 distributed by its member distributors are designed to be reusable or

1 recyclable by January 1, 2031, in accordance with criteria
2 established by the department;

3 (b) Calculate the reuse and recycling rates of qualifying
4 beverage containers and provide the verification to the department as
5 part of the annual reporting requirements. For materials reclaimed
6 under a deposit return system, the calculation point for the
7 redemption rate is the number of qualifying beverage containers
8 redeemed statewide by the distributor responsibility organization
9 divided by the number of qualifying beverage containers sold in the
10 state by members of the distributor responsibility organization.

11 (2) At a minimum, each plan must achieve the following
12 performance requirements:

13 (a) By 2028, a minimum of 60 percent of all qualifying beverage
14 containers supplied into the state by its member distributors are
15 reused or recycled through the deposit return system;

16 (b) By 2031, a minimum of 80 percent of all qualifying beverage
17 containers supplied into the state by its member distributors are
18 reused or recycled through the deposit return system;

19 (c) (i) By 2028, a minimum of 5 percent of all qualifying beverage
20 containers sold into the state by its member distributors are
21 reusable;

22 (ii) By 2030, a minimum of 10 percent of all qualifying beverage
23 containers sold into the state are reusable; and

24 (iii) By 2035, a minimum of 25 percent of all qualifying beverage
25 containers sold into the state are reusable.

26 (3) To be included in a performance rate calculation for purposes
27 of this chapter, recycled materials must be transferred to a
28 responsible end market.

29 NEW SECTION. **Sec. 309.** DEPOSIT RETURN SYSTEM PLAN. (1) No later
30 than 12 months after a distributor responsibility organization has
31 been approved by the department pursuant to section 307 of this act,
32 the distributor responsibility organization must submit a deposit
33 return system plan to the department.

34 (2) The deposit return system plan must:

35 (a) Impose a refund value for all qualifying beverage containers
36 covered under the plan, consistent with section 305 of this act;

37 (b) Identify methods for collecting qualifying beverage
38 containers from consumers and for paying consumers the refund value
39 of the qualifying beverage containers;

1 (c) Include a process for accepting direct, sorted returns for an
2 additional refund value premium if the containers are returned by a
3 501(c)(3) organization that is approved by the distributor
4 responsibility organization and serve very low-income individuals who
5 rely on regular container refunds through the deposit return system
6 as a source of daily funds;

7 (d) Identify the governing board members of the distributor
8 responsibility organization;

9 (e) List and explain the qualifying beverage containers supplied
10 or sold in or into Washington by each member distributor and their
11 brands of beverages participating in the plan;

12 (f) Describe how the distributor responsibility organization will
13 use and interact with recycling programs and infrastructure that
14 predate the implementation of the plan and with producer
15 responsibility organizations formed under chapter 70A.--- RCW (the
16 new chapter created in section 601 of this act);

17 (g) Include a list and description of qualifying beverage
18 container reuse and refill collection systems and processing
19 infrastructure;

20 (h) Describe activities to be undertaken to make convenient
21 collection services available for covered products in accordance with
22 the convenience standards established under section 310 of this act;

23 (i) Describe activities to be undertaken to implement the
24 education and outreach component as required under section 316 of
25 this act;

26 (j) Describe activities to be undertaken to minimize the amount
27 and cost of residual nonrecyclable materials from the collection and
28 processing of qualifying beverage containers. These include residual
29 nonrecyclable materials from material recovery facilities or similar
30 facilities producing specification grade commodities for sale, but do
31 not include residuals from further processing of end market-ready
32 material;

33 (k) Describe activities to be undertaken to develop or support
34 responsible end markets for qualifying beverage containers;

35 (l) Describe how plan implementation will maintain responsible
36 management practices for qualifying beverage containers through to
37 final disposition and ensure that any qualifying beverage containers
38 collected for recycling will be delivered to a responsible end
39 market;

1 (m) Include a stakeholder consultation report, as described in
2 section 315 of this act;

3 (n) Describe how the distributor responsibility organization will
4 coordinate with producer responsibility organizations under chapter
5 70A.--- RCW (the new chapter created in section 601 of this act) and
6 other distributor responsibility organizations in the state, in
7 specific terms;

8 (o) Include the contingency plan described in section 317 of this
9 act; and

10 (p) Include any other information to be included in the plan as
11 required by the department by rule.

12 (3) (a) The initial plans due to be submitted under this section
13 may address no more than three calendar years, dating from the date
14 on which the plan is due to be submitted to the department. Within
15 two years of implementation of its initial plan, a distributor
16 responsibility organization must submit an updated plan for the
17 following five calendar years to address changes in the operations
18 and activities of the program.

19 (b) For plans other than those described in (a) of this
20 subsection, a distributor responsibility organization must submit a
21 plan to the department that addresses five calendar years of
22 operation, dating from the date on which the plan is due to be
23 submitted to the department. A plan is valid for no more than five
24 years.

25 (c) For all subsequent plans submitted after the initial plan, a
26 distributor responsibility organization must submit to the
27 department, one year prior to the expiration of the plan, an updated
28 plan for the following five calendar years of operation to address
29 changes in the operations and activities of the program.

30 (d) If the performance rates set in section 308 of this act have
31 not been met as of the time of plan update, the distributor
32 responsibility organization must arrange for an independent
33 evaluation to be conducted of the distributor responsibility
34 organization's efforts to implement the plan approved by the
35 department. The evaluation must provide information for the
36 distributor responsibility organization to use to target and improve
37 program outcomes relative to the proposed and approved performance
38 rates.

39 (e) A distributor responsibility organization must carry out the
40 consultation process established in section 315 of this act prior to

1 the submission of each plan and plan update. The consultation process
2 established in section 315 of this act is not required to be carried
3 out by a distributor responsibility organization that is submitting a
4 revised plan:

5 (i) In response to an order from the department; or

6 (ii) Subsequent to a letter disapproving of a plan submission by
7 the distributor responsibility organization and for which the
8 original plan submitted by the distributor responsibility
9 organization had been subject to the consultation process required in
10 section 315 of this act.

11 (4)(a) A distributor responsibility organization may choose to
12 update its plan if significant changes have occurred.

13 (b) The department may require a distributor responsibility
14 organization to update its plan more frequently than every five years
15 if:

16 (i) The program and activities to implement the plan fail to
17 achieve the performance rates set in section 308 of this act or
18 otherwise fail to achieve significant requirements under this
19 chapter;

20 (ii) Additional distributor responsibility organizations register
21 with the department or receive approval from the department to begin
22 implementing a plan; or

23 (iii) There are significant changes to the regulatory or economic
24 environment in which plan activities are being carried out.

25 NEW SECTION. **Sec. 310.** OPERATION OF DEPOSIT RETURN SYSTEM.

26 (1)(a) The distributor responsibility organization approved by the
27 department must, at its own cost, provide a convenient bulk drop-off
28 option for bagged qualifying beverage containers at geographically
29 dispersed locations in Washington. The drop-off locations must be at
30 locations convenient to locations that sell beverages in qualifying
31 beverage containers, but nothing in this chapter may be interpreted
32 to create a legal obligation on the part of dealers either to accept
33 returned qualifying beverage containers or to allow a drop-off
34 location to be sited at the dealer.

35 (b) The distributor responsibility organization may not charge
36 customers for the drop-off service and must credit the cost of any
37 required bag purchase back to the customer when the bag is processed.
38 If drop-off bags are made of plastic film, the bags must have a
39 minimum 50 percent recycled content and the distributor

1 responsibility organization must be able to demonstrate that waste
2 film from bags is being recycled in the best commercially available
3 manner.

4 (c) Every distributor responsibility organization must identify
5 in its plan and on its website, in appropriate languages, maps of
6 each area where drop-off and other collection services for qualifying
7 beverage containers are available, a list and map of the location of
8 each permanent collection opportunity for qualifying beverage
9 containers, and the types and a list and map of locations of
10 alternate collection methods used.

11 (2) The distributor responsibility organization must establish at
12 least 270 bag drop-off sites around the state of Washington,
13 distributed by county in proportion to the volume of qualifying
14 beverage containers sold in the county. Bag drop-off sites may be
15 located at dealers, or any other publicly owned facility convenient
16 to a dealer, but nothing in this chapter may be interpreted to create
17 a legal obligation on the part of dealers, retail establishments, or
18 publicly owned facilities either to accept returned qualifying
19 beverage containers or to allow a bag drop-off site to be sited at
20 the dealer or publicly owned facility. All sites must be paid for in
21 full by the distributor responsibility organization.

22 (3) The distributor responsibility organization is not required
23 to accept or pay refunds for:

24 (a) Any beverage container that visibly contains or is
25 contaminated by a substance other than water, residue of the original
26 contents, or ordinary dust;

27 (b) Any beverage container that is crushed, broken, or damaged to
28 the extent that the brand appearing on the container cannot be
29 identified; or

30 (c) Any beverage container for which the distributor
31 responsibility organization has evidence was not purchased through
32 the state's deposit return system, or for which a refund has already
33 been given.

34 (4) If the distributor responsibility organization uses automated
35 industrial counting equipment to count containers returned in bulk
36 and credit refund values to consumers, the distributor responsibility
37 organization may use commercially viable methods of counting and must
38 have a customer service system to serve as the remedy in the case of
39 discrepancies.

1 (5) The distributor responsibility organization may create
2 reasonable terms and conditions for participation in the program.

3 (6) Distributor responsibility organizations, government
4 entities, and service providers implementing the deposit return
5 system must manage qualifying beverage containers in a manner
6 consistent with the state's solid waste management hierarchy
7 established in RCW 70A.205.005.

8 (7) Qualifying beverage containers collected by the deposit
9 return system must be responsibly managed at facilities operating
10 with human health and environmental protection standards that are
11 broadly equivalent to or better than those required in the United
12 States and other countries that are members of the organization for
13 economic cooperation and development.

14 (8) Distributor responsibility organizations implementing a plan
15 must include measures to:

16 (a) Track, verify, and publicly report that the responsible
17 management of qualifying beverage containers collected by the deposit
18 return system is maintained and that recycled materials are delivered
19 to a responsible end market;

20 (b) Promote and facilitate reuse of qualifying beverage
21 containers designed to be reused;

22 (c) Meet the necessary quality standards for recycled materials
23 so that qualifying beverage containers collected by the program may
24 be used to manufacture new products;

25 (d) (i) Document the locations of all material recovery facilities
26 and other processing facilities used to meet the requirements of this
27 chapter, whether within Washington, elsewhere in North America, or
28 outside of North America; and

29 (ii) Describe whether the processing facilities were preexisting,
30 planned, or under construction as of plan approval.

31 (9) (a) Prior to deposit return use of any alternative recycling
32 process for conversion of postuse plastic polymers for the purpose of
33 producing recycled material to be counted toward performance target
34 rates under this chapter, the distributor responsibility organization
35 must seek the department's approval and submit a third-party
36 assessment of the process's environmental impacts, as described under
37 this subsection. In order for an alternative recycling process to be
38 approved, the department must determine, after considering public
39 comment and input from the advisory council, that the alternative
40 recycling process produces similar or lesser impacts than those

1 produced in recycling that uses purely mechanical means for each of
2 the following environmental impacts:

3 (i) Air and water pollution and release or creation of any
4 hazardous pollutants;

5 (ii) Energy efficiency and greenhouse gas emissions;

6 (iii) Generation of hazardous waste;

7 (iv) Environmental impacts on overburdened communities and
8 vulnerable populations as identified by the department under chapter
9 70A.02 RCW;

10 (v) Water usage including, but not limited to, impacts to local
11 water resources and sewage infrastructure; and

12 (vi) Other environmental impacts as determined by the department
13 by rule.

14 (b) The results of the assessment under (a) of this subsection
15 must, whenever reported and communicated, provide full disclosure of
16 geographical, temporal, and technological boundaries that have been
17 selected for the assessment.

18 (c) The person preparing the assessment under (a) of this
19 subsection may not be interested, directly or indirectly, in the
20 ownership or operation of any recycling facility proposed to conduct
21 the alternative recycling process under assessment.

22 (10) To facilitate recycling of covered products back into
23 covered products and encourage development of circular economic
24 activity in the state and region, material recovery facilities and
25 other processing facilities handling materials under the program
26 shall prioritize agreements with and on behalf of distributor or
27 distributor responsibility organizations regarding long-term
28 contracts and other purchase agreements based on fair market pricing
29 for commodities of comparable quality.

30 (11) Distributor responsibility organizations must coordinate
31 with other distributor responsibility organizations in Washington or
32 other states and producer responsibility organizations in Washington
33 or other states to provide reimbursement and ensure that government
34 entities and service providers are reimbursed for recycling services
35 as required under this chapter, and to ensure that qualifying
36 beverage containers are not reported as supplied or managed by more
37 than one organization.

38 NEW SECTION. **Sec. 311.** REPORTING. (1) Beginning July 1st of the
39 year after an approved program begins to be implemented, and each

1 July 1st thereafter, a distributor responsibility organization must
2 submit an annual report to the department for the preceding calendar
3 year of plan implementation. Each annual report must include data,
4 descriptions, and other information sufficient to allow the
5 department to determine whether a distributor responsibility
6 organization has fulfilled its obligations under this chapter during
7 the preceding calendar year, including actions identified by the
8 distributor responsibility organization to be undertaken as part of
9 the plan submitted under section 309 of this act, and actions to
10 implement the requirements and other provisions of this chapter.

11 (2) Each annual report must include the following information:

12 (a) A list of the member distributors within the distributor
13 responsibility organization;

14 (b) A list and explanation of the beverages in qualifying
15 beverage containers supplied or sold in or into Washington to
16 consumers by members of the distributor responsibility organization
17 and the brands of qualifying beverage containers participating in the
18 deposit return system;

19 (c) The number of qualifying beverage containers supplied into
20 the state in aggregate, and by material categories of glass, metal,
21 and plastic, by members of the distributor responsibility
22 organization, as determined by an independent financial audit in
23 conjunction with (k) of this subsection;

24 (d) The number of qualifying beverage containers returned in
25 aggregate, and by material categories of glass, metal, and plastic,
26 through the deposit return system operated by the distributor
27 responsibility organization;

28 (e) The final destinations of all recycled material managed by
29 the program;

30 (f) The annual redemption rate in aggregate, and by material
31 categories of glass, metal, and plastic;

32 (g) When applicable, the annual proportion of reused containers;

33 (h) The number, distribution, and location of container return
34 locations in the state;

35 (i) The total annual budget for the distributor responsibility
36 organization;

37 (j) The total value of unclaimed refunds;

38 (k) The total cost of implementing the deposit return system, as
39 determined by an independent financial audit and performed by an
40 independent auditor, including:

1 (i) Information regarding the independently audited financial
2 statements detailing all payments received and issued by the
3 distributor responsibility organization covered by the deposit return
4 system under the plan approved by the department;

5 (ii) A copy of the independent audit; and

6 (iii) A detailed description of the infrastructure investments
7 made consistent with section 312 of this act.

8 NEW SECTION. **Sec. 312.** UNCLAIMED REFUNDS. The entire value of
9 unclaimed refunds collected under this chapter, whether held or
10 retained by distributors or by the distributor responsibility
11 organization, must be invested in operations and infrastructure
12 supporting the reuse and recycling of qualifying beverage containers
13 in Washington. The distributor responsibility organization shall
14 provide audited financial details to demonstrate that the distributor
15 responsibility organization's infrastructure and operating budget is
16 greater than the value of 100 percent of the unclaimed refunds.

17 NEW SECTION. **Sec. 313.** PAYMENT OF DEPOSIT FOR COLLECTION USING
18 OTHER INFRASTRUCTURE AND SERVICE PROVIDER AGREEMENTS. (1) The
19 distributor responsibility organization must accept, and must pay the
20 full refund value for, any qualifying beverage containers presented
21 to it by material recovery facilities, government entities, and other
22 processing facilities handling recyclable materials as long as the
23 qualifying beverage containers have been collected and separated in
24 accordance with standards established by the distributor
25 responsibility organization, and those standards have been approved
26 by the department. The methodology for determining the amount of
27 beverage containers presented for redemption by government entities,
28 material recovery facilities, and other processing facilities
29 handling recyclable materials must include periodic third-party
30 auditing and verification. Redemption of any qualifying beverage
31 containers collected through services for which a producer
32 responsibility organization established under chapter 70A.--- RCW
33 (the new chapter created in section 601 of this act) provides
34 reimbursement must be reported to the producer responsibility
35 organization and may be factored into reimbursement rates as
36 specified by the producer responsibility organization plan approved
37 by the department.

1 (2) Service provider agreements between distributor
2 responsibility organizations and government entities under this
3 chapter are limited in scope to authorizing the reimbursement of
4 costs and any other services included in a distributor responsibility
5 organization plan that are to be carried out by a government entity.
6 A distributor responsibility organization may not make a government
7 entity's reimbursement under this chapter contingent upon the
8 performance of activities or the fulfillment of terms or conditions
9 that are not specified as a duty of government entities under this
10 chapter or required under a plan approved under this chapter.

11 (3) A distributor responsibility organization that enters into
12 contractual agreements with service providers to carry out producer
13 responsibilities under this chapter must:

14 (a) Use open, competitive, and fair procurement practices;

15 (b) Provide opportunities for women, minority, or veteran-owned
16 businesses, small businesses, and independent operators to
17 participate as service providers;

18 (c) Require that all contracted service providers:

19 (i) Meet minimum operating standards, including the requirements
20 of this chapter and chapter 70A.205 RCW;

21 (ii) Meet high labor standards, including family level wages,
22 providing benefits including health care and retirement plans or
23 contributions, and demonstrate procurement from and contracts with
24 women, minority, or veteran-owned businesses; and

25 (iii) Provide fair opportunities regardless of ethnicity, race,
26 gender, age, disability, religion, sexual orientation, or national
27 origin; and

28 (d) Require that contracted service providers maintain records
29 and provide the producer responsibility organization with verifiable
30 chain of custody documentation up to the point of final disposition,
31 reporting parameters for material recovery facilities and other
32 processing facilities under section 110 of this act, and other
33 documentation necessary to evaluate the performance relative to the
34 requirements of this chapter. The producer responsibility
35 organization must submit the records and documentation required under
36 this subsection to the department, upon request by the department.

37 (4) The department must consult with other state agencies in any
38 review of the distributor responsibility organization's consistency
39 with the standards established in this section.

1 (5) Nothing in this chapter requires a person, including a
2 business, to use a deposit return system created under this chapter
3 or precludes the disposal for recycling of qualifying beverage
4 containers via curbside recycling collection systems.

5 NEW SECTION. **Sec. 314.** DROP ACCOUNT. The deposit return
6 organization program account is created in the custody of the state
7 treasury. All receipts received by the department under this chapter
8 must be deposited in the account. Expenditures from the account may
9 be used by the department only for implementing, administering, and
10 enforcing the requirements of this chapter. Only the director of the
11 department or the director's designee may authorize expenditures from
12 the account. The account is subject to the allotment procedures under
13 chapter 43.88 RCW, but an appropriation is not required for
14 expenditures.

15 NEW SECTION. **Sec. 315.** STAKEHOLDER CONSULTATION. (1) Each
16 distributor of qualifying beverage containers must participate in,
17 implement, and fund a distributor responsibility organization plan
18 approved by the department.

19 (2) A distributor responsibility organization that is registered
20 with the department must develop and maintain a public website with
21 enhanced language access informing the public of plan implementation
22 details, including collection services and locations for each type of
23 qualifying beverage containers, and a current list of all member
24 producers and brands of beverages participating in the plan.

25 (3) Prior to submitting a new, updated, or revised plan to the
26 department, a distributor responsibility organization must conduct a
27 consultation process to directly and actively involve stakeholders in
28 development of key plan elements established in section 309 of this
29 act. The distributor responsibility organization, through the
30 consultation process, must solicit and respond to input and
31 recommendations from the advisory council established in section 120
32 of this act and other stakeholders. At a minimum, the consultation
33 process must include:

34 (a) Quarterly meetings open to the public with the advisory
35 council subject to the requirements of chapter 42.30 RCW throughout
36 the plan development process to discuss and review key plan elements;

37 (b) Consultation on the reimbursement rates to be used for any
38 services other than curbside collection that are to be carried out by

1 government entities and that may be included in producer
2 responsibility organization plans;

3 (c) Consultation on the service agreement template and any other
4 forms, contracts, or documents outlining the terms and conditions for
5 reimbursement to government entities for services delivered in
6 accordance with the requirements of this chapter;

7 (d) Opportunities for all stakeholders, including the advisory
8 council created in section 120 of this act, and members of the public
9 to provide comment on the plan for no less than 30 days prior to its
10 submission to the department;

11 (e) Presentations in various formats and languages as necessary
12 for soliciting meaningful input on the plan and receiving comments
13 including workshops, surveys, webinars, and one-on-one meetings; and

14 (f) Documentation of all comments received from the advisory
15 council created in section 120 of this act and other stakeholders,
16 and a summary of responses provided by the distributor responsibility
17 organization for purposes of a stakeholder consultation report to be
18 included with the submission of a plan to the department. The
19 stakeholder consultation report must also describe each forum in
20 which comments or input was received and how it was addressed in the
21 plan.

22 NEW SECTION. **Sec. 316.** EDUCATION AND OUTREACH. (1) Each plan
23 implemented by a distributor responsibility organization under this
24 chapter must include education and outreach activities that
25 effectively reach diverse residents, are accessible, are clear, and
26 support the achievement of the performance rates set in distributor
27 responsibility organization plans as described in section 309 of this
28 act. To implement the education and outreach activities described in
29 the plan, a distributor responsibility organization must, at minimum:

30 (a) Develop and provide outreach and educational materials,
31 resources, and campaigns about the program to be used by dealers,
32 government entities, and nonprofit organizations. The materials,
33 resources, and campaigns developed under this section must encourage
34 participation in recycling collection and reuse and refill systems
35 and must achieve:

36 (i) Education and engagement with residents on recycling, reuse,
37 and refill practices;

38 (ii) Outreach to obtain consistently high levels of public
39 participation in and use of the deposit return system and reuse and

1 refill systems, including where and how to redeem qualifying beverage
2 containers, or return or refill reusable covered products; and

3 (iii) Education and engagement to reduce the rate of inbound
4 contamination or unwanted materials;

5 (b) Coordinate and fund the distribution and deployment of
6 statewide promotional campaigns developed under this section through
7 media channels that may include, but are not limited to, print
8 publications, radio, television, the internet, and online streaming
9 services;

10 (c) Use consistent and easy to understand messaging and education
11 statewide, with the aim of reducing resident confusion regarding the
12 recyclability, reuse, compostability, and end-of-life management
13 options available for different qualifying beverage containers;

14 (d) Be conceptually, linguistically, and culturally accurate for
15 the communities served and tailored to effectively reach the state's
16 diverse populations, including through meaningful consultation with
17 overburdened communities and vulnerable populations;

18 (e) Establish a process for answering customer questions and
19 resolving customer concerns; and

20 (f) Evaluate the effectiveness of education and outreach efforts
21 for the purposes of making progress toward performance requirements
22 established in this chapter.

23 (2)(a) A distributor responsibility organization must coordinate
24 with government entities that choose to participate in carrying out
25 resident education and outreach in accordance with the approach
26 specified in the distributor responsibility organization's plan.

27 (b) All distributor responsibility organizations implementing a
28 plan approved by the department must collaborate to present a
29 consistent statewide program to ensure that all state residents can
30 easily identify, understand, and access services provided by any
31 approved distributor responsibility organization. The department may
32 require distributor responsibility organizations to coordinate and
33 use consistent signage and consistent messaging in education and
34 outreach activities under this section.

35 NEW SECTION. **Sec. 317.** CONTINGENCY PLAN. (1) A distributor
36 responsibility organization must submit to the department a
37 comprehensive contingency plan demonstrating how the activities in
38 the plan will continue to be carried out by some other entity, if
39 needed, such as an escrow company:

1 (a) Until such time as a new plan is submitted and approved by
2 the department;

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

4 (c) In the event that the distributor responsibility organization
5 has been notified by the department that they must transfer
6 implementation responsibility for the program to a different
7 distributor responsibility organization;

8 (d) In the event that the distributor responsibility organization
9 notifies the department that it will cease to implement an approved
10 plan; or

11 (e) In any other event that the distributor responsibility
12 organization can no longer carry out plan implementation.

13 (2) The contingency plan required in this section must be
14 submitted to the department as a component of the distributor
15 responsibility organization's initial plan submitted to the
16 department under section 309 of this act. The department may require
17 a distributor responsibility organization to update the contingency
18 plan required under this section coincident with any plan update
19 under section 309 of this act.

20 (3) The department must follow the same process and timelines for
21 reviewing and approving the contingency plan as it follows for
22 reviewing and approving the distributor responsibility organization's
23 program plan under section 309 of this act.

24 NEW SECTION. **Sec. 318.** DAMAGES FOR FAILURE TO PAY REFUND VALUE.

25 Unless otherwise specified in a distributor responsibility
26 organization's bylaws or in a contract between a distributor
27 responsibility organization and an individual distributor arranging
28 specifically for the collection of beverage containers sold for the
29 purpose of consumption on premises, any manufacturer, distributor, or
30 importer that fails to pay to the distributor responsibility
31 organization the refund value of beverage containers included in this
32 chapter is liable to the distributor responsibility organization for
33 treble the unpaid refund value and treble the collection costs
34 incurred by the distributor responsibility organization for any
35 beverage containers that were sold without the refund value of the
36 container being remitted to the distributor responsibility
37 organization.

1 NEW SECTION. **Sec. 319.** CIVIL PENALTIES. (1) The distributor
2 responsibility organization shall pay a penalty to the department
3 equal to 10 cents for every unredeemed container under the
4 performance requirements set forth in section 308(2) of this act.

5 (2) In addition to the penalties prescribed in subsection (1) of
6 this section, the department may administratively impose a civil
7 penalty of up to \$1,000 per violation per day on any person who
8 violates this chapter or on any distributor responsibility
9 organization who violates the postconsumer recycled content
10 provisions applicable to distributor responsibility organizations
11 under chapter 70A.--- RCW (the new chapter created in section 603 of
12 this act) and up to \$10,000 per violation per day for the second and
13 each subsequent violation.

14 (3) Upon the department notifying a distributor responsibility
15 organization that it has not met a significant requirement of this
16 chapter or chapter 70A.--- RCW (the new chapter created in section
17 602 of this act), the department may, in addition to assessing the
18 penalties provided in subsections (1) and (2) of this section, take
19 any combination of the following actions:

20 (a)(i) Issue corrective action orders to a distributor or
21 distributor responsibility organization;

22 (ii) Issue orders to a distributor responsibility organization to
23 provide for the continued implementation of the program in the
24 absence of an approved plan;

25 (b) Revoke the distributor responsibility organization's plan
26 approval and require the distributor responsibility organization to
27 implement its contingency plan under section 317 of this act;

28 (c) Require a distributor responsibility organization to revise
29 or resubmit a plan within a specified time frame; or

30 (d) Require additional reporting related to compliance with the
31 significant requirements of this chapter that was not met.

32 (4) Prior to taking the actions described in subsection (3)(b) of
33 this section, the department must provide the distributor
34 responsibility organization or the producer an opportunity to respond
35 to or rebut the written finding upon which the action is predicated.

36 (5)(a) After October 1st of the first year in which a distributor
37 responsibility organization is registered with the department, and
38 after notification of noncompliance from the department and a 60-day
39 period in which the distributor responsibility organization has the
40 opportunity to remedy the noncompliance, the department shall

1 administratively impose a civil penalty once per year to any
2 distributor that fails to participate in a distributor responsibility
3 organization as specified in section 304 of this act, which is the
4 greater of 10 cents per qualifying beverage container sold or made
5 available for sale by that distributor in the state, or \$10,000.

6 (b) Any distributor that incurs a penalty or order under this
7 section may appeal the penalty to the pollution control hearings
8 board established in chapter 43.21B RCW.

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

11 **Part Four**

12 **Amendments to Solid Waste Management Laws**

13 **Sec. 401.** RCW 70A.205.005 and 2002 c 299 s 3 are each amended to
14 read as follows:

15 The legislature finds:

16 (1) Continuing technological changes in methods of manufacture,
17 packaging, and marketing of consumer products, together with the
18 economic and population growth of this state, the rising affluence of
19 its citizens, and its expanding industrial activity have created new
20 and ever-mounting problems involving disposal of garbage, refuse, and
21 solid waste materials resulting from domestic, agricultural, and
22 industrial activities.

23 (2) Traditional methods of disposing of solid wastes in this
24 state are no longer adequate to meet the ever-increasing problem.
25 Improper methods and practices of handling and disposal of solid
26 wastes pollute our land, air and water resources, blight our
27 countryside, adversely affect land values, and damage the overall
28 quality of our environment.

29 (3) Considerations of natural resource limitations, energy
30 shortages, economics and the environment make necessary the
31 development and implementation of solid waste recovery and/or
32 recycling plans and programs.

33 (4) Waste reduction must become a fundamental strategy of solid
34 waste management. It is therefore necessary to change manufacturing
35 and purchasing practices and waste generation behaviors to reduce the
36 amount of waste that becomes a governmental responsibility.

37 (5) Source separation of waste must become a fundamental strategy
38 of solid waste management. Collection and handling strategies should

1 have, as an ultimate goal, the source separation of all materials
2 with resource value or environmental hazard.

3 (6) (a) It should be the goal of every person and business to
4 minimize their production of wastes and to separate recyclable or
5 hazardous materials from mixed waste.

6 (b) It is the responsibility of state, county, and city
7 governments to provide for a waste management infrastructure to fully
8 implement waste reduction and source separation strategies and to
9 process and dispose of remaining wastes in a manner that is
10 environmentally safe and economically sound. It is further the
11 responsibility of state, county, and city governments to monitor the
12 cost-effectiveness and environmental safety of combusting separated
13 waste, processing mixed municipal solid waste, and recycling
14 programs.

15 (c) It is the responsibility of county and city governments to
16 assume primary responsibility for solid waste management and to
17 develop and implement aggressive and effective waste reduction and
18 source separation strategies.

19 (d) It is the responsibility of state government to ensure that
20 local governments are providing adequate source reduction and
21 separation opportunities and incentives to all, including persons in
22 both rural and urban areas, and nonresidential waste generators such
23 as commercial, industrial, and institutional entities, recognizing
24 the need to provide flexibility to accommodate differing population
25 densities, distances to and availability of recycling markets, and
26 collection and disposal costs in each community; and to provide
27 county and city governments with adequate technical resources to
28 accomplish this responsibility.

29 (e) It is the responsibility of producers to help provide for the
30 responsible management of their products.

31 (7) Environmental and economic considerations in solving the
32 state's solid waste management problems requires strong consideration
33 by local governments of regional solutions and intergovernmental
34 cooperation.

35 (8) The following priorities for the collection, handling, and
36 management of solid waste are necessary and should be followed in
37 descending order as applicable:

38 (a) Waste reduction;

39 (b) Recycling, with source separation of recyclable materials as
40 the preferred method;

- 1 (c) Energy recovery, incineration, or landfill of separated
2 waste;
- 3 (d) Energy recovery, incineration, or landfill of mixed municipal
4 solid wastes.
- 5 (9) It is the state's goal to achieve a (~~fifty~~) 50 percent
6 recycling rate by 2007.
- 7 (10) It is the state's goal that programs be established to
8 eliminate residential or commercial yard debris in landfills by 2012
9 in those areas where alternatives to disposal are readily available
10 and effective.
- 11 (11) Steps should be taken to make recycling at least as
12 affordable and convenient to the ratepayer as mixed waste disposal.
- 13 (12) It is necessary to compile and maintain adequate data on the
14 types and quantities of solid waste that are being generated and to
15 monitor how the various types of solid waste are being managed.
- 16 (13) Vehicle batteries should be recycled and the disposal of
17 vehicle batteries into landfills or incinerators should be
18 discontinued.
- 19 (14) Excessive and nonrecyclable packaging of products should be
20 avoided.
- 21 (15) Comprehensive education should be conducted throughout the
22 state so that people are informed of the need to reduce, source
23 separate, and recycle solid waste.
- 24 (16) All governmental entities in the state should set an example
25 by implementing aggressive waste reduction and recycling programs at
26 their workplaces and by purchasing products that are made from
27 recycled materials and are recyclable.
- 28 (17) To ensure the safe and efficient operations of solid waste
29 disposal facilities, it is necessary for operators and regulators of
30 landfills and incinerators to receive training and certification.
- 31 (18) It is necessary to provide adequate funding to all levels of
32 government so that successful waste reduction and recycling programs
33 can be implemented.
- 34 (19) The development of stable and expanding markets for
35 recyclable materials is critical to the long-term success of the
36 state's recycling goals. Market development must be encouraged on a
37 state, regional, and national basis to maximize its effectiveness.
38 The state shall assume primary responsibility for the development of
39 a multifaceted market development program to carry out the purposes
40 of chapter 431, Laws of 1989.

1 (20) There is an imperative need to anticipate, plan for, and
2 accomplish effective storage, control, recovery, and recycling of
3 discarded tires and other problem wastes with the subsequent
4 conservation of resources and energy.

5 **Sec. 402.** RCW 70A.205.010 and 2005 c 394 s 2 are each amended to
6 read as follows:

7 The purpose of this chapter is to establish a comprehensive
8 statewide program for solid waste handling, and solid waste recovery
9 and/or recycling which will prevent land, air, and water pollution
10 and conserve the natural, economic, and energy resources of this
11 state. To this end it is the purpose of this chapter:

12 (1) To assign primary responsibility for adequate solid waste
13 handling to local government, reserving to the state, however, those
14 functions necessary to assure effective programs throughout the
15 state, and sharing with producers' responsibility for the management
16 of their covered products under chapter 70A.--- RCW (the new chapter
17 created in section 601 of this act);

18 (2) To provide for adequate planning for solid waste handling by
19 local government;

20 (3) To provide for the adoption and enforcement of basic minimum
21 performance standards for solid waste handling, including that all
22 sites where recyclable materials are generated and transported from
23 shall provide a separate container for solid waste;

24 (4) To encourage the development and operation of waste recycling
25 facilities needed to accomplish the management priority of waste
26 recycling, to promote consistency in the requirements for such
27 facilities throughout the state, and to ensure that recyclable
28 materials diverted from the waste stream for recycling are routed to
29 facilities in which recycling occurs;

30 (5) To provide technical and financial assistance to local
31 governments in the planning, development, and conduct of solid waste
32 handling programs;

33 (6) To encourage storage, proper disposal, and recycling of
34 discarded vehicle tires and to stimulate private recycling programs
35 throughout the state; and

36 (7) To encourage the development and operation of waste recycling
37 facilities and activities needed to accomplish the management
38 priority of waste recycling and to promote consistency in the

1 permitting requirements for such facilities and activities throughout
2 the state.

3 It is the intent of the legislature that local governments be
4 encouraged to use the expertise of private industry and to contract
5 with private industry to the fullest extent possible to carry out
6 solid waste recovery and/or recycling programs.

7 **Sec. 403.** RCW 70A.205.045 and 2020 c 20 s 1163 are each amended
8 to read as follows:

9 Each county and city comprehensive solid waste management plan
10 shall include the following:

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

14 (2) The estimated long-range needs for solid waste handling
15 facilities projected twenty years into the future.

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

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

23 (b) Take into account the comprehensive land use plan of each
24 jurisdiction;

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

27 (d) Contain a plan for financing both capital costs and
28 operational expenditures of the proposed solid waste management
29 system.

30 (4) A program for surveillance and control.

31 (5) A current inventory and description of solid waste collection
32 needs and operations within each respective jurisdiction which shall
33 include:

34 (a) Any franchise for solid waste collection granted by the
35 utilities and transportation commission in the respective
36 jurisdictions including the name of the holder of the franchise and
37 the address of his or her place of business and the area covered by
38 the franchise;

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

3 (c) The population density of each area serviced by a city
4 operation or by a franchised operation within the respective
5 jurisdictions;

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

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

13 (7) The waste reduction and recycling element shall include the
14 following:

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

19 (b) Source separation strategies, including:

20 (i) Programs for the collection of source separated materials
21 from residences (~~in urban and rural areas. In urban areas, these~~),
22 including programs that are the responsibility of producer
23 responsibility organizations in chapter 70A.--- RCW (the new chapter
24 created in section 601 of this act) and distributor responsibility
25 organizations in chapter 70A.--- RCW (the new chapter created in
26 section 603 of this act). These programs shall include collection of
27 source separated recyclable materials from single and multiple-family
28 residences, unless the county has adopted an ordinance establishing
29 that covered products designated for collection by a producer
30 responsibility organization plan must be collected exclusively
31 through alternate collection in areas regulated by the utilities and
32 transportation commission under the provisions of chapter 81.77 RCW
33 or the department approves an alternative program, according to the
34 criteria in the planning guidelines. Such criteria shall include:
35 Anticipated recovery rates and levels of public participation,
36 availability of environmentally sound disposal capacity, access to
37 markets for recyclable materials, unreasonable cost impacts on the
38 ratepayer over the six-year planning period, utilization of
39 environmentally sound waste reduction and recycling technologies, and
40 other factors as appropriate. ((In rural areas, these)) These

1 programs shall also include but not be limited to drop-off boxes,
2 buy-back centers, or a combination of both, at each solid waste
3 transfer, processing, or disposal site, or at locations convenient to
4 the residents of the county. The drop-off boxes and buy-back centers
5 may be owned or operated by public, nonprofit, or private persons.
6 Comprehensive solid waste management plans that are newly developed,
7 updated, or amended after July 1, 2026, may incorporate by reference
8 the plans of producer responsibility organizations established in the
9 jurisdiction under chapter 70A.--- RCW (the new chapter created in
10 section 601 of this act) to fulfill this requirement in whole or in
11 part;

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

15 (iii) Programs to collect yard waste and food waste, if the
16 county or city submitting the plan finds that there are adequate
17 markets or capacity for composted yard waste and food waste within or
18 near the service area to consume the majority of the material
19 collected; and

20 (iv) Programs to educate and promote the concepts of waste
21 reduction and recycling;

22 (c) Recycling strategies, including a description of markets for
23 recyclables, a review of waste generation trends, a description of
24 waste composition, a discussion and description of existing programs
25 and any additional programs needed to assist public and private
26 sector recycling, and an implementation schedule for the designation
27 of specific materials to be collected for recycling, and for the
28 provision of recycling collection services;

29 (d) Other information the county or city submitting the plan
30 determines is necessary.

31 (8) An assessment of the plan's impact on the costs of solid
32 waste collection. The assessment shall be prepared in conformance
33 with guidelines established by the utilities and transportation
34 commission. The commission shall cooperate with the Washington state
35 association of counties and the association of Washington cities in
36 establishing such guidelines.

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

39 (10) A contamination reduction and outreach plan. The
40 contamination reduction and outreach plan must address reducing

1 contamination in recycling. Except for counties with a population of
2 twenty-five thousand or fewer, by July 1, 2021, a contamination
3 reduction and outreach plan must be included in each solid waste
4 management plan by a plan amendment or included when revising or
5 updating a solid waste management plan developed under this chapter.
6 Jurisdictions may adopt the state's contamination reduction and
7 outreach plan as developed under RCW 70A.205.070 or participate in a
8 producer responsibility organization's plan in lieu of creating their
9 own plan. In comprehensive solid waste management plans that are
10 newly developed, updated, or amended after July 1, 2027, a
11 jurisdiction must reference the plans of producer responsibility
12 organizations established in the jurisdiction under chapter 70A.---
13 RCW (the new chapter created in section 601 of this act) and any
14 plans of distributor responsibility organizations under chapter
15 70A.--- RCW (the new chapter created in section 603 of this act). A
16 recycling contamination reduction and outreach plan must include the
17 following:

18 (a) A list of actions for reducing contamination in recycling
19 programs for single-family and multiple-family residences, commercial
20 locations, and drop boxes depending on the jurisdictions system
21 components;

22 (b) A list of key contaminants identified by the jurisdiction or
23 identified by the department;

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

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

28 (e) An implementation schedule and details of how outreach is to
29 be conducted. Contamination reduction education methods may include
30 sharing community-wide messaging through newsletters, articles,
31 mailers, social media, websites, or community events, informing
32 recycling drop box customers about contamination, and improving
33 signage.

34 **Sec. 404.** RCW 81.77.030 and 2020 c 20 s 1467 are each amended to
35 read as follows:

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

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

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

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

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

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

10 (~~(6)~~) (f) By reviewing producer responsibility organization
11 reimbursement of regulated service providers consistent with the
12 requirements of chapter 70A.--- RCW (the new chapter created in
13 section 601 of this act);

14 (g) By requiring certificate holders under this chapter (~~81.77~~
15 RCW)) to use rate structures and billing systems consistent with the
16 solid waste management priorities set forth under RCW 70A.205.005 and
17 the minimum levels of solid waste collection and recycling services
18 pursuant to local comprehensive solid waste management plans and with
19 implementation of curbside recycling collection services designated
20 by a producer responsibility organization in an approved plan to meet
21 the requirements of chapter 70A.--- RCW (the new chapter created in
22 section 601 of this act). The commission may order consolidated
23 billing and provide for reasonable and necessary expenses to be paid
24 to the administering company if more than one certificate is granted
25 in an area.

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

35 **Sec. 405.** RCW 81.77.040 and 2020 c 20 s 1468 are each amended to
36 read as follows:

37 A solid waste collection company shall not operate for the
38 hauling of solid waste for compensation without first having obtained
39 from the commission a certificate declaring that public convenience

1 and necessity require such operation. Operating for the hauling of
2 solid waste for compensation includes advertising, soliciting,
3 offering, or entering into an agreement to provide that service. To
4 operate a solid waste collection company in the unincorporated areas
5 of a county, the company must comply with the solid waste management
6 plan prepared under chapter 70A.205 RCW in the company's franchise
7 area and, if applicable, the service standards for curbside recycling
8 collection services established in an approved producer
9 responsibility organization plan to meet the requirements of chapter
10 70A.--- RCW (the new chapter created in section 601 of this act).

11 Issuance of the certificate of necessity must be determined on,
12 but not limited to, the following factors: The present service and
13 the cost thereof for the contemplated area to be served; an estimate
14 of the cost of the facilities to be utilized in the plant for solid
15 waste collection and disposal, set out in an affidavit or
16 declaration; a statement of the assets on hand of the person, firm,
17 association, or corporation that will be expended on the purported
18 plant for solid waste collection and disposal, set out in an
19 affidavit or declaration; a statement of prior experience, if any, in
20 such field by the petitioner, set out in an affidavit or declaration;
21 and sentiment in the community contemplated to be served as to the
22 necessity for such a service.

23 When an applicant requests a certificate to operate in a
24 territory already served by a certificate holder under this chapter,
25 the commission may, after notice and an opportunity for a hearing,
26 issue the certificate only if the existing solid waste collection
27 company or companies serving the territory will not provide service
28 to the satisfaction of the commission or if the existing solid waste
29 collection company does not object.

30 In all other cases, the commission may, with or without hearing,
31 issue certificates, or for good cause shown refuse to issue them, or
32 issue them for the partial exercise only of the privilege sought, and
33 may attach to the exercise of the rights granted such terms and
34 conditions as, in its judgment, the public convenience and necessity
35 may require.

36 Any right, privilege, certificate held, owned, or obtained by a
37 solid waste collection company may be sold, assigned, leased,
38 transferred, or inherited as other property, only if authorized by
39 the commission.

1 For purposes of issuing certificates under this chapter, the
2 commission may adopt categories of solid wastes as follows: Garbage,
3 refuse, recyclable materials, and demolition debris. A certificate
4 may be issued for one or more categories of solid waste. Certificates
5 issued on or before July 23, 1989, shall not be expanded or
6 restricted by operation of this chapter.

7 **Sec. 406.** RCW 81.77.160 and 1997 c 434 s 1 are each amended to
8 read as follows:

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

12 (a) All charges for the disposal of solid waste at the facility
13 or facilities designated by a local jurisdiction under a local
14 comprehensive solid waste management plan or ordinance; and

15 (b) All known and measurable costs related to implementation of
16 the approved county or city comprehensive solid waste management plan
17 or to the implementation of curbside recycling collection services
18 performed by a solid waste collection company and designated by a
19 producer responsibility organization in an approved plan to meet the
20 requirements of chapter 70A.--- RCW (the new chapter created in
21 section 601 of this act).

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

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

34 **Sec. 407.** RCW 81.77.185 and 2010 c 154 s 3 are each amended to
35 read as follows:

36 (1) The commission shall allow solid waste collection companies
37 collecting recyclable materials other than covered products collected
38 under an approved plan in chapter 70A.--- RCW (the new chapter

1 created in section 601 of this act) and qualifying beverage
2 containers under an approved plan in chapter 70A.--- RCW (the new
3 chapter created in section 603 of this act) to retain up to ((fifty))
4 50 percent of the revenue paid to the companies for the material if
5 the companies submit a plan to the commission that is certified by
6 the appropriate local government authority as being consistent with
7 the local government solid waste plan and that demonstrates how the
8 revenues will be used to increase recycling. The remaining revenue
9 shall be passed to residential customers.

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

12 (a) The effectiveness of revenue sharing as an incentive to
13 increase recycling in the state; and

14 (b) The effect of revenue sharing on costs to customers.

15 NEW SECTION. Sec. 408. APPLICATION OF CHAPTER—COLLECTION AND
16 TRANSPORTATION OF RECYCLABLE MATERIALS BY RECYCLING COMPANIES OR
17 NONPROFIT ENTITIES—REUSE OR RECLAMATION. (1) Nothing in this chapter
18 or chapter 70A.---

19 (the new chapter created in section 602 of this
20 act) or 70A.---

21 RCW (the new chapter created in section 603 of this
22 act) prevents a recycling company or nonprofit entity from collecting
23 and transporting recyclable materials from a buy-back center, drop
24 box, or from a commercial or industrial generator of recyclable
25 materials that does not include materials generated from single and
26 multiple-family residences upon agreement with a solid waste
27 collection company.

28 (2) Nothing in this chapter or chapter 70A.---

29 (the new chapter
30 created in section 602 of this act) or 70A.---

31 RCW (the new chapter
32 created in section 603 of this act) may be construed as prohibiting a
33 commercial or industrial generator of commercial recyclable materials
34 that does not contain materials generated from single or multiple-
35 family residences from selling, conveying, or arranging for
36 transportation of the material to a recycler for reuse or
37 reclamation.

34 NEW SECTION. Sec. 409. A new section is added to chapter
35 70A.222 RCW to read as follows:

36 The department of ecology may direct producers to register and
37 submit any required data, annual reports, fees, and annual payments,
38 and any additional information or documentation to the clearinghouse

1 established in section 125 of this act in lieu of submission to the
2 department.

3 NEW SECTION. **Sec. 410.** A new section is added to chapter
4 70A.350 RCW to read as follows:

5 The department may direct producers to register and submit any
6 required data, annual reports, fees, and annual payments, and any
7 additional information or documentation to the clearinghouse
8 established in section 125 of this act in lieu of submission to the
9 department.

10 NEW SECTION. **Sec. 411.** A new section is added to chapter
11 70A.245 RCW to read as follows:

12 The department may direct producers to register and submit any
13 required data, annual reports, fees, and annual payments, and any
14 additional information or documentation to the clearinghouse
15 established in section 125 of this act in lieu of submission to the
16 department.

17 NEW SECTION. **Sec. 412.** A new section is added to chapter
18 70A.230 RCW to read as follows:

19 The department may direct producers to register and submit any
20 required data, annual reports, fees, and annual payments, and any
21 additional information or documentation to the clearinghouse
22 established in section 125 of this act in lieu of submission to the
23 department.

24 NEW SECTION. **Sec. 413.** A new section is added to chapter
25 70A.340 RCW to read as follows:

26 The department may direct producers to register and submit any
27 required data, annual reports, fees, and annual payments, and any
28 additional information or documentation to the clearinghouse
29 established in section 125 of this act in lieu of submission to the
30 department.

31 NEW SECTION. **Sec. 414.** A new section is added to chapter
32 70A.455 RCW to read as follows:

33 The department may direct producers to register and submit any
34 required data, annual reports, fees, and annual payments, and any
35 additional information or documentation to the clearinghouse

1 established in section 125 of this act in lieu of submission to the
2 department.

3 NEW SECTION. **Sec. 415.** The department of ecology may direct
4 distributors to register and submit any required data, annual
5 reports, fees, and annual payments, and any additional information or
6 documentation to the clearinghouse established in section 125 of this
7 act in lieu of submission to the department.

8 **Part Five**

9 **Other Conforming Amendments and Miscellaneous Provisions**

10 **Sec. 501.** RCW 43.21B.110 and 2022 c 180 s 812 are each amended
11 to read as follows:

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

19 (a) Civil penalties imposed pursuant to RCW 18.104.155,
20 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070,
21 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080,
22 70A.65.200, 70A.455.090, sections 123, 211, and 319 of this act,
23 76.09.170, 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270,
24 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

25 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
26 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070,
27 70A.245.020, 70A.65.200, sections 123, 211, and 319 of this act,
28 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

29 (c) Except as provided in RCW 90.03.210(2), the issuance,
30 modification, or termination of any permit, certificate, or license
31 by the department or any air authority in the exercise of its
32 jurisdiction, including the issuance or termination of a waste
33 disposal permit, the denial of an application for a waste disposal
34 permit, the modification of the conditions or the terms of a waste
35 disposal permit, or a decision to approve or deny an application for
36 a solid waste permit exemption under RCW 70A.205.260.

1 (d) Decisions of local health departments regarding the grant or
2 denial of solid waste permits pursuant to chapter 70A.205 RCW.

3 (e) Decisions of local health departments regarding the issuance
4 and enforcement of permits to use or dispose of biosolids under RCW
5 70A.226.090.

6 (f) Decisions of the department regarding waste-derived
7 fertilizer or micronutrient fertilizer under RCW 15.54.820, and
8 decisions of the department regarding waste-derived soil amendments
9 under RCW 70A.205.145.

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

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

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

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

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

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

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

37 (n) Decisions of the department of ecology that are appealable
38 under RCW 70A.245.020 or section 211 of this act to set recycled
39 minimum postconsumer content for (~~covered~~) products or to

1 temporarily exclude types of (~~covered~~) products in plastic
2 containers from minimum postconsumer recycled content requirements.

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

4 (2) The following hearings shall not be conducted by the hearings
5 board:

6 (a) Hearings required by law to be conducted by the shorelines
7 hearings board pursuant to chapter 90.58 RCW.

8 (b) Hearings conducted by the department pursuant to RCW
9 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,
10 70A.15.3110, and 90.44.180.

11 (c) Appeals of decisions by the department under RCW 90.03.110
12 and 90.44.220.

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

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

18 **Sec. 502.** RCW 43.21B.300 and 2022 c 180 s 813 are each amended
19 to read as follows:

20 (1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160,
21 70A.205.280, 70A.300.090, 70A.20.050, 70A.245.040, 70A.245.050,
22 70A.245.070, 70A.245.080, 70A.65.200, 70A.455.090, sections 123, 211,
23 and 319 of this act, 88.46.090, 90.03.600, 90.46.270, 90.48.144,
24 90.56.310, 90.56.330, and 90.64.102 and chapter 70A.355 RCW shall be
25 imposed by a notice in writing, either by certified mail with return
26 receipt requested or by personal service, to the person incurring the
27 penalty from the department or the local air authority, describing
28 the violation with reasonable particularity. For penalties issued by
29 local air authorities, within 30 days after the notice is received,
30 the person incurring the penalty may apply in writing to the
31 authority for the remission or mitigation of the penalty. Upon
32 receipt of the application, the authority may remit or mitigate the
33 penalty upon whatever terms the authority in its discretion deems
34 proper. The authority may ascertain the facts regarding all such
35 applications in such reasonable manner and under such rules as it may
36 deem proper and shall remit or mitigate the penalty only upon a
37 demonstration of extraordinary circumstances such as the presence of
38 information or factors not considered in setting the original
39 penalty.

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

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

9 (a) Thirty days after receipt of the notice imposing the penalty;

10 (b) Thirty days after receipt of the notice of disposition by a
11 local air authority on application for relief from penalty, if such
12 an application is made; or

13 (c) Thirty days after receipt of the notice of decision of the
14 hearings board if the penalty is appealed.

15 (4) If the amount of any penalty is not paid to the department
16 within 30 days after it becomes due and payable, the attorney
17 general, upon request of the department, shall bring an action in the
18 name of the state of Washington in the superior court of Thurston
19 county, or of any county in which the violator does business, to
20 recover the penalty. If the amount of the penalty is not paid to the
21 authority within 30 days after it becomes due and payable, the
22 authority may bring an action to recover the penalty in the superior
23 court of the county of the authority's main office or of any county
24 in which the violator does business. In these actions, the procedures
25 and rules of evidence shall be the same as in an ordinary civil
26 action.

27 (5) All penalties recovered shall be paid into the state treasury
28 and credited to the general fund except those penalties imposed
29 pursuant to RCW 18.104.155, which shall be credited to the
30 reclamation account as provided in RCW 18.104.155(7), RCW
31 70A.15.3160, the disposition of which shall be governed by that
32 provision, RCW 70A.245.040 (~~and~~), 70A.245.050, and section 211 of
33 this act, which shall be credited to the recycling enhancement
34 account created in RCW 70A.245.100, RCW 70A.300.090, which shall be
35 credited to the model toxics control operating account created in RCW
36 70A.305.180, RCW 70A.65.200, which shall be credited to the climate
37 investment account created in RCW 70A.65.250, RCW 90.56.330, which
38 shall be credited to the coastal protection fund created by RCW
39 90.48.390, (~~and~~) RCW 70A.355.070, which shall be credited to the
40 underground storage tank account created by RCW 70A.355.090, and

1 chapter 70A.--- RCW (the new chapter created in section 601 of this
2 act) and section 319 of this act, which shall be credited to the
3 recycling enhancement account created in RCW 70A.245.100.

4 NEW SECTION. **Sec. 503.** A new section is added to chapter 69.50
5 RCW to read as follows:

6 LIQUOR AND CANNABIS BOARD PACKAGING REQUIREMENTS. (1) By July 1,
7 2026, the board, in consultation with the department of ecology, must
8 update the rules adopted under RCW 69.50.342 and 69.50.345 related to
9 the nature, form, and capacity of containers used by licensees under
10 this chapter, with a goal of:

11 (a) Reducing the use of plastic packaging in an amount that is at
12 least commensurate with the source reduction rates for covered
13 products proposed by a producer responsibility organization under
14 section 111(1)(a)(iii) of this act; and

15 (b) Allowing for and encouraging the reuse of containers for
16 cannabis, cannabis concentrates, useable cannabis, or cannabis-
17 infused products.

18 (2) In addition to the source reduction and reuse to be achieved
19 under subsection (1) of this section, the board may establish minimum
20 postconsumer recycled content requirements for packaging of at least
21 25 percent postconsumer recycled content by weight through the year
22 2030, and at least 50 percent postconsumer recycled content plastic
23 by weight beginning in the year 2031. If postconsumer recycled
24 content requirements are established for packaging under this
25 subsection, the board may require that producers of packaging report
26 any required data, annual reports, fees, and annual payments, and any
27 additional information or documentation to the board or to the
28 department of ecology using the clearinghouse established in section
29 125 of this act.

30 (3) Rules adopted by the board under this section must:

31 (a) Not compromise public health, safety, or packaging integrity;

32 (b) Take into consideration the availability of recycled plastic
33 suitable to meet any minimum postconsumer recycled content
34 requirements established under this section; and

35 (c) Take into consideration the technical feasibility of source
36 reduction, reuse, and postconsumer recycled content requirements.

37 NEW SECTION. **Sec. 504.** AUTHORITY OF UTILITIES AND
38 TRANSPORTATION COMMISSION. Nothing in this chapter or chapter 70A.---

1 (the new chapter created in section 602 of this act) or 70A.--- RCW
2 (the new chapter created in section 603 of this act) changes or
3 limits the authority of the Washington utilities and transportation
4 commission to regulate collection of solid waste, including curbside
5 collection of residential recyclable materials, in accordance with
6 chapter 81.77 RCW.

7 NEW SECTION. **Sec. 505.** FEASIBILITY STUDY. (1) By December 1,
8 2025, the department of ecology must complete and publish on its
9 website the feasibility analysis described in this section.

10 (a) The purpose of the feasibility analysis is to:

11 (i) Identify options to improve the convenience experienced by
12 consumers with unwanted products or packaging covered by state
13 product stewardship, extended producer responsibility, and similar
14 takeback programs, by harmonizing or establishing a system of common
15 or centralized takeback centers or depots for consumers; and

16 (ii) Consider the viability, costs, and tradeoffs associated with
17 each option that might lead to improved outcomes for consumers and
18 improved end-of-life management outcomes for covered unwanted
19 products.

20 (b) The department of ecology must deliver policy recommendations
21 to the legislature by December 1, 2025.

22 (2) The department of ecology must consult with the department of
23 health for purposes of considering the potential for integration of
24 collection infrastructure under chapter 69.48 RCW with the collection
25 infrastructure of other state programs.

26 (3) The feasibility analysis required under this section must:

27 (a) Be conducted by an independent third party selected by the
28 department;

29 (b) Consider the following:

30 (i) Existing common collection infrastructure models used by
31 other jurisdictions;

32 (ii) Existing voluntary and contractually established collection
33 infrastructure currently used to collect unwanted products and
34 packaging in Washington; and

35 (iii) Options to deploy curbside collection systems for the
36 specialized collection of products;

37 (c) Include policy recommendations to the legislature to improve
38 consumer convenience and improve environmental end-of-life management
39 outcomes for any combination of products and packaging covered by

1 extended producer responsibility programs, takeback programs, or
2 product stewardship programs;

3 (i) The policy recommendations must consider:

4 (A) Beverage containers covered by the deposit return
5 requirements of chapter 70A.--- RCW (the new chapter created in
6 section 603 of this act);

7 (B) Covered products under chapter 70A.--- RCW (the new chapter
8 created in section 601 of this act);

9 (C) Covered drugs under chapter 69.48 RCW;

10 (D) Covered electronic products under chapter 70A.500 RCW;

11 (E) Mercury-containing lights under chapter 70A.505 RCW;

12 (F) Photovoltaic modules under chapter 70A.510 RCW; and

13 (G) Architectural paint under chapter 70A.515 RCW.

14 (ii) Any policy recommendations for changes to the collection of
15 products covered by programs identified in (c)(i) of this subsection
16 should consider:

17 (A) Whether and how to amend convenience standards established
18 under each program, including the types of curbside, drop off, event,
19 and public and private infrastructure that serves as collection
20 infrastructure; and

21 (B) Whether and how to specify that producers of products covered
22 by programs recommended for inclusion in the creation of a common
23 collection system be required to fund the establishment of the common
24 collection infrastructure; and

25 (d) Include an opportunity for public input on the feasibility
26 study and on any draft recommendations.

27 NEW SECTION. **Sec. 506.** LITTER TAX STUDY. (1) In consultation
28 with producer responsibility organizations registered with the
29 department of ecology under chapter 70A.--RCW (the new chapter
30 created in section 601 of this act) and distributor responsibility
31 organizations under chapter 70A.--- RCW (the new chapter created in
32 section 603 of this act), the department of ecology and the
33 department of revenue must study:

34 (a) The impacts of producer and distributor requirements under
35 chapters 70A.--- (the new chapter created in section 601 of this act)
36 and 70A.--- RCW (the new chapter created in section 603 of this act)
37 on the litter rates of covered products and qualifying beverage
38 containers under those chapters; and

1 (b) Possible improvements to the structure of the litter tax
2 under chapter 82.19 RCW including, but not limited to,
3 administration, compliance, and distribution of the tax and
4 application of the tax to certain products, for achieving the purpose
5 of chapter 82.19 RCW.

6 (2) By January 1, 2029, the department of ecology, in
7 consultation with the department of revenue, must provide
8 recommendations to the appropriate committees of the legislature on:

9 (a) Applicability of the litter tax to covered products and
10 qualifying beverage containers, based on whether the purpose of the
11 litter tax under chapter 82.19 RCW is being achieved for those
12 products by the requirements of producers and distributors under
13 chapters 70A.--- (the new chapter created in section 601 of this act)
14 and 70A.--- RCW (the new chapter created in section 603 of this act);
15 and

16 (b) Improvements to the structure of the litter tax for meeting
17 the purposes of chapter 82.19 RCW.

18 (3) This section expires July 1, 2029.

19 NEW SECTION. **Sec. 507.** RCW 70A.245.110 (Recycled content
20 account) and 2021 c 313 s 14 are each repealed, effective July 1,
21 2029.

22 NEW SECTION. **Sec. 508.** If any provision of this act or its
23 application to any person or circumstance is held invalid, the
24 remainder of the act or the application of the provision to other
25 persons or circumstances is not affected.

26 **Part Six**

27 **Codification Directives**

28 NEW SECTION. **Sec. 601.** Sections 101 through 128, 408, 504, and
29 506 of this act constitute a new chapter in Title 70A RCW.

30 NEW SECTION. **Sec. 602.** Sections 201 through 212 of this act
31 constitute a new chapter in Title 70A RCW.

1 NEW SECTION. **Sec. 603.** Sections 301 through 319 and 415 of this
2 act constitute a new chapter in Title 70A RCW.

--- **END** ---