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**HOUSE BILL 1488**

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**State of Washington**

**67th Legislature**

**2021 Regular Session**

**By Representative Fey**

1 AN ACT Relating to the management of plastic packaging materials;  
2 amending RCW 70A.200.140; reenacting and amending RCW 43.21B.110;  
3 adding a new section to chapter 42.56 RCW; adding a new chapter to  
4 Title 70A RCW; creating a new section; and prescribing penalties.

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

6 NEW SECTION. **Sec. 1.** (1) Sustainable and resilient markets for  
7 recycled materials are essential to any successful recycling system.  
8 For many years, Washington has depended on foreign markets to accept  
9 the recyclable materials that are collected for recycling in the  
10 state. Developing domestic markets for recycled materials benefits  
11 the environment and the state's economy and is critical due to the  
12 loss of foreign markets.

13 (2) China's 2018 national sword policy bans the importation of  
14 recycled mixed paper and certain types of recycled plastic and  
15 imposes a stringent contamination limit on all other recycled  
16 material imports. Washington's recycling facilities are struggling to  
17 find markets for recyclable materials.

18 (3) Plastic packaging can be recycled and can contain recycled  
19 content in order to close the loop in the recycling stream. Many  
20 companies have already taken the initiative at closing the loop by  
21 using plastic bottles that contain 100 percent recycled content.

1 Since November 2010, one national juice company has been using  
2 bottles made with 100 percent postconsumer recycled content for all  
3 of its juices and juice smoothies. In January 2018, an international  
4 beverage producer announced that it will make all its bottles from  
5 100 percent recycled plastic by 2025.

6 (4) The legislature intends that costs to plastic packaging  
7 producers will be capped and predictable. The requirements imposed by  
8 this chapter are reasonable and are achievable at minimal cost  
9 relative to the burden imposed by the continued excessive use of  
10 virgin materials in plastic packaging in Washington.

11 (5) The legislature encourages plastic packaging producers to use  
12 plastic packaging that exceeds the standards set forth in this  
13 chapter.

14 (6) The legislature intends that by January 1, 2025, all plastic  
15 packaging sold in the state of Washington be either recyclable or  
16 compostable.

17 NEW SECTION. **Sec. 2.** The definitions in this section apply  
18 throughout this chapter unless the context clearly requires  
19 otherwise.

20 (1) "Brand" means a name, symbol, word, or mark that identifies a  
21 product, rather than its components, and attributes a covered product  
22 that is packaging utilized by the product to the brand holder of the  
23 product as the producer.

24 (2) "Brand holder" means a person who owns or licenses a brand or  
25 who otherwise has rights to market a product under the brand, whether  
26 or not the brand trademark is registered.

27 (3) "Compostable" means a covered product that is capable of  
28 undergoing aerobic biological decomposition in a system meeting the  
29 requirements of chapters 70A.205 and 70A.455 RCW, that results in the  
30 material broken down primarily into carbon dioxide, water, inorganic  
31 compounds, and biomass.

32 (4) "Department" means the department of ecology.

33 (5) "Infant formula" means any liquid food described or sold as  
34 an alternative for human milk for the feeding of infants.

35 (6) (a) "Medical food" means a food or beverage that is formulated  
36 to be consumed, or administered enterally under the supervision of a  
37 physician, and that is intended for specific dietary management of  
38 diseases or health conditions for which distinctive nutritional

1 requirements, based on recognized scientific principles, are  
2 established by medical evaluation.

3 (b) "Medical food" includes a specially formulated and processed  
4 product, for the partial or exclusive feeding of a patient by means  
5 of oral intake or enteral feeding by tube, and is not a naturally  
6 occurring foodstuff used in its natural state.

7 (c) "Medical food" includes any product that meets the definition  
8 of "medical food" in the federal food, drug, and cosmetic act 21  
9 U.S.C. Sec. 360ee (b) (3).

10 (7) (a) "Plastic packaging" means the portion of packaging made  
11 from plastic, whether alone or in combination with another material,  
12 including packaging that bonds plastic with other materials together,  
13 such as metal lids bonded to plastic bottles, blister packs combining  
14 plastic and paperboard, but excluding plastic-coated paper packaging  
15 and aseptic containers, and is: (i) Used to protect, contain, or  
16 transport a commodity or product at any point from manufacture to its  
17 place of use; or (ii) attached to a commodity or product or its  
18 container for the purpose of marketing or communicating information  
19 about the commodity or product, and which is capable of being removed  
20 and discarded when the product is put in use without adverse effect  
21 on the quality or performance of the product.

22 (b) "Plastic packaging" includes packaging that is filled or  
23 unfilled and packaging that is intended to be sold as a product to  
24 customers.

25 (8) (a) "Postconsumer recycled content" means the percentage of  
26 recycled plastic contained in or attributed to the plastic packaging  
27 that is made of recycled materials derived specifically from  
28 postconsumer plastic sources and processed using either mechanical or  
29 advanced recycling technologies including, but not limited to,  
30 depolymerization, gasification, pyrolysis, or solvolysis.

31 (b) For the purposes of this subsection, "attributed" means a  
32 methodology by which a producer using mass balance allocates an  
33 equivalent of its input feedstocks that were derived from advanced  
34 recycling processes across one or more of its products manufacturers  
35 using such feedstocks.

36 (9) (a) "Producer" means a manufacturer of plastic packaging and a  
37 wholesaler, supplier, or retailer that has contractually undertaken  
38 responsibility to the manufacturer for the covered product.

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) A health care facility or a health care provider as defined  
6 in RCW 70.02.010.

7 NEW SECTION. **Sec. 3.** (1) Each year, a producer of plastic  
8 packaging must meet the following minimum postconsumer recycled  
9 content on average across a producer's entire product line for the  
10 total amount of plastic packaging sold, offered for sale, or  
11 distributed in Washington effective:

12 (a) For packaging comprised primarily of resins number 1 PETE  
13 (polyethylene terephthalate) or number 2 HDPE (high density  
14 polyethylene) as identified in RCW 70A.220.020:

15 (i) July 1, 2023, through December 31, 2026: No less than 15  
16 percent postconsumer recycled plastic;

17 (ii) January 1, 2027, through December 31, 2030: No less than 25  
18 percent postconsumer recycled plastic;

19 (iii) On and after January 1, 2031: No less than 50 percent  
20 postconsumer recycled plastic.

21 (b) For rigid packaging comprised primarily of resins numbers 3  
22 through 7 as identified in RCW 70A.220.020:

23 (i) July 1, 2023, through December 31, 2030: No less than 15  
24 percent postconsumer recycled plastic;

25 (ii) January 1, 2030, through December 31, 2035: No less than 25  
26 percent postconsumer recycled plastic;

27 (iii) On and after January 1, 2036: No less than 50 percent  
28 postconsumer recycled plastic.

29 (c) For flexible packaging comprised primarily of resins numbers  
30 3 through 7 as identified in RCW 70A.220.020:

31 (i) July 1, 2023, through December 31, 2028: No less than 10  
32 percent postconsumer recycled plastic;

33 (ii) January 1, 2029, through December 31, 2035: No less than 20  
34 percent postconsumer recycled plastic;

35 (iii) On and after January 1, 2036: No less than 30 percent  
36 postconsumer recycled plastic.

37 (2)(a) Beginning in 2024, and every other year thereafter, or at  
38 the petition of a producer or the plastic packaging industry but not  
39 more than annually, the department shall consider whether the minimum

1 postconsumer recycled content requirements established under  
2 subsection (1) of this section should be reduced. The department must  
3 consider a petition from the plastic packaging industry within 60  
4 days of receipt and must issue a written response. A denial in part  
5 or whole of the petition must be accompanied by a written explanation  
6 and findings to each of the petition's claims. The department may  
7 consider all petitions received as part of the same agency action or  
8 proceeding.

9 (b) If the department determines that a minimum postconsumer  
10 recycled content requirement should be adjusted, the adjusted rate  
11 must be in effect until a new determination is made or upon the  
12 expiration of the minimum postconsumer recycled content requirement's  
13 effective period, whichever occurs first. The department may not  
14 adjust the minimum postconsumer recycled content requirements above  
15 the applicable minimum postconsumer recycled content percentage for  
16 the applicable compliance period, as established in subsection (1) of  
17 this section. The department may not adjust the minimum postconsumer  
18 recycled content requirements below the lowest applicable material  
19 compliance level set in subsection (1) of this section. In making a  
20 determination to adjust the minimum postconsumer recycled content  
21 requirements, the department must at least consider the following:

22 (i) Changes in market conditions, including supply and demand for  
23 postconsumer recycled plastics, collection rates, and bale  
24 availability;

25 (ii) Recycling rates;

26 (iii) The availability of recycled plastic suitable to meet the  
27 minimum postconsumer recycled content requirements;

28 (iv) The capacity of recycling or processing infrastructure;

29 (v) The progress made by plastics packaging manufacturers in  
30 meeting the requirements of this section; and

31 (vi) The carbon footprint of the transportation and manufacture  
32 of the recycled resin.

33 (3) A producer, the plastic packaging industry, or a plastic  
34 packaging manufacturer may appeal adjustments to the requirement for  
35 minimum postconsumer recycled content as determined under subsections  
36 (1) and (2) of this section to the pollution control hearings board  
37 within 30 days of the department's determination.

38 (4) A producer that does not meet the minimum postconsumer  
39 recycled content requirements established in subsection (1) of this  
40 section is subject to a fee established in section 5 of this act.

1 (5) The department may grant a reduction in fees to a producer of  
2 plastic packaging. In determining whether to grant the reduction, the  
3 department shall consider, at a minimum, all of the following  
4 factors:

5 (a) Anomalous market conditions;

6 (b) Disruption in, or lack of supply of, recycled plastics;

7 (c) The extent to which a producer has reduced overall packaging  
8 waste generated with recyclable, compostable, or reusable  
9 alternatives;

10 (d) Other factors that have prevented a producer from meeting the  
11 requirement including, but not limited to, state or federal laws,  
12 rules, or regulations.

13 (6)(a) In order to receive a reduction of the fee, a producer  
14 shall submit to the department a corrective action plan detailing the  
15 reasons why the producer will fail to meet or has failed to meet the  
16 minimum postconsumer recycled content standard and the steps the  
17 producer will take to comply with the minimum postconsumer recycled  
18 content standard within the next reporting year. The department may  
19 approve the corrective action plan and must reduce fees on a producer  
20 once it approves the corrective action plan and the producer  
21 implements the plan.

22 (b) The department must provide a written explanation for a  
23 decision to approve or deny a corrective action plan, including:

24 (i) Factors or standards used by the department in reviewing a  
25 corrective action plan;

26 (ii) An explanation of how the department applied standards or  
27 factors under (b)(i) of this subsection to the corrective action  
28 plan;

29 (iii) An explanation of actions a producer can take in a future  
30 corrective action plan to reduce fees or other compliance  
31 requirements;

32 (iv) An explanation of the methodology used by the department to  
33 determine the fee.

34 (c) The department shall provide technical assistance and an  
35 opportunity for a plastic packaging producer to update a corrective  
36 action plan before issuing fees.

37 (d) Fees accrue from the point of noncompliance with the minimum  
38 postconsumer recycled content standard if the department disapproves  
39 the corrective action plan or if the producer fails to implement the  
40 plan.

1        NEW SECTION.    **Sec. 4.**    (1)(a) By March 1, 2022, and annually  
2 thereafter, a producer, under penalty of perjury, must report to the  
3 department, in pounds and by resin type, the amount of virgin plastic  
4 and postconsumer recycled plastic used for plastic packaging sold,  
5 offered for sale, or distributed in Washington state in the previous  
6 calendar year.

7        (b) The department must post aggregated information for all  
8 producers reported under this subsection on its website.

9        (2) The department may: (a) Conduct audits and investigations for  
10 the purpose of ensuring compliance with this section based on the  
11 information reported under subsection (1) of this section; and (b)  
12 adopt rules to implement, administer, and enforce the requirements of  
13 this chapter.

14        (3) The department shall keep confidential all business trade  
15 secrets and proprietary information about manufacturing processes and  
16 equipment that the department gathers or becomes aware of through the  
17 course of conducting audits or investigations pursuant to this  
18 chapter.

19        NEW SECTION.    **Sec. 5.**    (1) Beginning July 1, 2023, a producer  
20 that does not meet the minimum postconsumer recycled content  
21 requirements across a producer's entire product line for plastic  
22 packaging sold, offered for sale, or distributed in Washington as  
23 established under section 3 of this act, based upon the amount in  
24 pounds and in the aggregate, is subject to an annual fee.

25        (2) Beginning July 1, 2023, the department may assess fees for  
26 violations.

27        (3)(a) The department shall adopt rules to implement a fee that  
28 will not exceed \$200 per ton. The department may structure fees to  
29 lower fees for producers that achieve partial compliance. The fee  
30 structure implemented must be estimated to raise no less than  
31 \$30,000,000 per biennium and no more than \$40,000,000 per biennium.

32        (b) If the department estimates that fee revenue will fall below  
33 the range established in (a) of this subsection, the department must  
34 implement a base fee of \$200 per ton and publish an estimate of  
35 revenue expected to be raised by the fee in the report required by  
36 subsection (4) of this section. The department may lower fees for  
37 individual producers under section 3 (5) or (6) of this act.

38        (4) Beginning January 1, 2023, the department must publish an  
39 annual report containing an annual estimate of the revenue estimated

1 to be raised by the fee, the amounts and quantities of plastic  
2 packaging subject to the fee, and the number of producers currently  
3 and expected to be in compliance with section 3 of this act.

4 (5) A producer must:

5 (a) Pay to the department assessed fees in quarterly  
6 installments; or

7 (b) Arrange an alternative payment schedule subject to the  
8 approval of the department.

9 (6) A producer may appeal fees assessed under this section to the  
10 pollution control hearings board within 30 days of assessment.

11 (7) A producer shall pay the fees assessed pursuant to this  
12 section, as applicable, based on the information reported to the  
13 department as required under section 4 of this act in the form and  
14 manner prescribed by the department.

15 (8) The department shall not spend more than 10 percent of the  
16 collected fees on administration or enforcement of the program.

17 NEW SECTION. **Sec. 6.** (1) The recycling improvement account is  
18 created in the state treasury. All receipts from the fee imposed on  
19 plastic packaging in section 5 of this act must be deposited in the  
20 account. However, until June 30, 2024, \$1,000,000 from the fee  
21 imposed on plastic packaging in section 5 of this act must be  
22 deposited in the waste reduction, recycling, and litter control  
23 account created in RCW 70A.200.140, with the remainder deposited in  
24 the recycling improvement account. Moneys in the account may be spent  
25 only after appropriation.

26 (2) (a) One hundred percent of the expenditures from the account  
27 must be used for distributions by the department to cities and  
28 counties that are eligible for financial assistance under RCW  
29 70A.205.080 for the purposes specified in (b) of this subsection, and  
30 for the department's administration of this chapter.

31 (b) (i) Cities and counties must use all funds received under this  
32 section for the development and implementation of:

33 (A) Actions or investments to improve recycling infrastructure  
34 and the recyclability of plastic packaging through curbside recycling  
35 programs;

36 (B) Depots or collection points for plastics not effectively  
37 collected or processed through curbside programs; and



1 (C) Solid waste planning, management, regulation, enforcement,  
2 technical assistance, and public education required under chapter  
3 70A.205 RCW.

4 (ii) In adopting rules governing the distribution of funds under  
5 this subsection, the department may incorporate the fund  
6 prioritization criteria and process adopted by the department under  
7 RCW 70A.205.080. The rules adopted by the department must distribute  
8 funds to counties based on the population of the county, after  
9 distributing a set minimum amount to each county.

10 (iii) The department shall develop rules governing the  
11 distribution of funds under this section in conjunction with an  
12 advisory committee convened by the department that includes five  
13 members appointed by the Washington association of county solid waste  
14 managers and five members appointed by the Washington state  
15 association of local public health officials. These rules must  
16 include a requirement that local governments annually report to the  
17 department on how the funds are used to improve plastics recycling  
18 infrastructure and the recyclability of plastic packaging. These  
19 reports must be posted on the department's public website.

20 NEW SECTION. **Sec. 7.** (1) A stakeholder advisory committee for  
21 the implementation of this chapter is established. The stakeholder  
22 advisory committee must recommend to the department, and the  
23 department may adopt by rule, methods for aggregating materials to  
24 determine compliance, exemptions, exceptions, or alternative  
25 compliance requirements for the provisions of sections 3 through 5 of  
26 this act, that include, but are not limited to:

27 (a) Plastic packaging, including food contact packaging, that is  
28 subject to federal laws, regulations, or requirements, including  
29 requirements of the United States department of transportation, the  
30 United States department of agriculture, or the United States food  
31 and drug administration;

32 (b) Plastic packaging that is determined by the department  
33 through life-cycle analysis to exhibit environmentally superior  
34 performance when it does not contain postconsumer recycled content or  
35 contains smaller amounts of postconsumer recycled content than  
36 established by the requirements of section 3 of this act;

37 (c) Plastic packaging from producers with an annual sale or  
38 distribution of less than 2,000 pounds of plastic packaging in  
39 Washington;

1 (d) Plastic packaging associated with a single point of retail  
2 sale in Washington;

3 (e) Plastic packaging from women or minority-owned producers, if  
4 the department determines such an exemption is in the public  
5 interest;

6 (f) Packaging that is necessary to provide tamper-resistant seals  
7 for public health purposes or used for food protection and delivery  
8 or child-resistant packaging; or

9 (g) Plastic packaging that is intended for reuse by a business as  
10 part of the regular operations of the business.

11 (2) The department must provide a written explanation to the  
12 stakeholder advisory committee regarding exemptions implemented or  
13 denied based on stakeholder recommendations. The department may  
14 include this explanation within the concise explanatory statement  
15 under RCW 34.05.325.

16 (3) The department shall exempt the following plastic packaging  
17 from the provisions of sections 3 through 5 of this act:

18 (a) Plastic packaging and food serviceware provided for the  
19 purpose of serving prepared serving food: (i) Via a drive through;  
20 (ii) in a packaged form for takeout or takeaway; or (iii) from food  
21 trucks, stands, delis, or kiosks that may or may not provide shelter  
22 or seating for consumers;

23 (b) Plastic bags subject to postconsumer recycled content  
24 requirements under chapter 70A.530 RCW;

25 (c) Compostable packaging determined by the department to meet  
26 the requirements of chapter 70A.455 RCW;

27 (d) Any material that is used in the packaging of a product that  
28 is regulated as a drug, medical device, or dietary supplement by the  
29 United States food and drug administration under the federal food,  
30 drug, and cosmetic act (21 U.S.C. Sec. 321 et seq.) as well as drugs  
31 used for veterinary medicine, including parasiticide products for  
32 animals. This includes plastic packaging that contains:

33 (i) Milk, medical food, or infant formula;

34 (ii) Wine, or wine from which alcohol has been removed, in whole  
35 or in part, whether or not sparkling or carbonated;

36 (iii) Distilled spirits;

37 (iv) One hundred percent fruit juice in containers that are 46  
38 ounces or more in volume; and

39 (v) One hundred percent vegetable juice in containers of 16  
40 ounces or more in volume;

1 (e) Plastic packaging containers that contain toxic or hazardous  
2 products regulated by the federal insecticide, fungicide, and  
3 rodenticide act (7 U.S.C. 136 et seq.);

4 (f) Plastic packaging containers that are manufactured for use in  
5 the shipment of hazardous materials and are prohibited from being  
6 manufactured with used material by federal packaging material  
7 specifications and testing standards set forth in 49 C.F.R. Secs.  
8 178.509 and 178.522, or are subject to testing standards set forth in  
9 49 C.F.R. Secs. 178.600 through 178.609, inclusive, or to which  
10 recommendations of the United Nations on the transport of dangerous  
11 goods are applicable;

12 (g) Architectural paint defined in and included in a stewardship  
13 plan under chapter 70A.515 RCW;

14 (h) Aerosols regulated under 49 C.F.R. Sec. 178.33b-6;

15 (i) Three and five gallon water cooler containers that are part  
16 of a water cooler system; and

17 (j) Packaging not intended to be discarded but instead used for  
18 the long-term or permanent storage or protection of a durable product  
19 and that is intended to transport, protect, or store the product on  
20 an ongoing basis, such as an included reusable carrying case for the  
21 product.

22 (4) The president of the senate and the speaker of the house of  
23 representatives shall jointly appoint at least one member to the  
24 stakeholder advisory committee from each of the following:

25 (a) The department;

26 (b) The department of commerce;

27 (c) The utilities and transportation commission;

28 (d) Cities, including both small and large cities and cities  
29 located in urban and rural counties;

30 (e) Counties, including both small and large counties and urban  
31 and rural counties;

32 (f) Public sector recycling and solid waste industries;

33 (g) Private sector recycling and solid waste industries;

34 (h) A solid waste collection company regulated under chapter  
35 81.77 RCW that provides curbside recycling services;

36 (i) A material recovery facility operator that processes  
37 municipal solid waste from curbside recycling programs;

38 (j) A company that provides curbside recycling service pursuant  
39 to a municipal contract under RCW 81.77.020;

1 (k) A trade association that represents the private sector solid  
2 waste industry;

3 (l) Recycled plastic feedstock users;

4 (m) Environmental and environmental justice organizations;

5 (n) A manufacturer of plastic packaging;

6 (o) A statewide general business trade association;

7 (p) A representative of a consumer brand company or retailer that  
8 utilizes plastic packaging;

9 (q) A representative of an advanced recycling technology provider  
10 that processes plastic material; and

11 (r) An association that represents county solid waste managers.

12 (5) After the adoption of initial rules to implement this  
13 chapter, the department must periodically reengage the stakeholder  
14 advisory committee under this section to review the exemptions,  
15 exceptions, or alternative compliance requirements adopted by rule  
16 under this section.

17 NEW SECTION. **Sec. 8.** (1) A city, town, county, or municipal  
18 corporation may not implement local recycled content requirements for  
19 plastic packaging that are inconsistent with minimum postconsumer  
20 recycled content as required under section 3 of this act.

21 (2) Local laws and ordinances that are inconsistent with, more  
22 restrictive than, or exceed the requirements of this chapter, may not  
23 be enacted and are preempted.

24 NEW SECTION. **Sec. 9.** A new section is added to chapter 42.56  
25 RCW to read as follows:

26 Information submitted to the department of ecology under chapter  
27 70A.--- RCW (the new chapter created in section 13 of this act), that  
28 contains business trade secrets or proprietary information about  
29 manufacturing processes and equipment, is exempt from disclosure  
30 under this chapter.

31 **Sec. 10.** RCW 70A.200.140 and 2020 c 20 s 1076 are each amended  
32 to read as follows:

33 (1) There is hereby created an account within the state treasury  
34 to be known as the waste reduction, recycling, and litter control  
35 account. Moneys in the account may be spent only after appropriation.  
36 Expenditures from the waste reduction, recycling, and litter control  
37 account shall be used as follows:

1 (a) Forty percent to the department of ecology, primarily for use  
2 by the departments of ecology, natural resources, revenue,  
3 transportation, and corrections, and the parks and recreation  
4 commission, for litter collection programs under RCW 70A.200.170. The  
5 amount to the department of ecology shall also be used for a central  
6 coordination function for litter control efforts statewide; to  
7 support employment of youth in litter cleanup as intended in RCW  
8 70A.200.020, and for litter pick up using other authorized agencies;  
9 and for statewide public awareness programs under RCW 70A.200.150(7).  
10 The amount to the department shall also be used to defray the costs  
11 of administering the funding, coordination, and oversight of local  
12 government programs for waste reduction, litter control, recycling,  
13 and composting so that local governments can apply one hundred  
14 percent of their funding to achieving program goals. The amount to  
15 the department of revenue shall be used to enforce compliance with  
16 the litter tax imposed in chapter 82.19 RCW;

17 (b) (i) Twenty percent to the department for local government  
18 funding programs for waste reduction, litter control, recycling  
19 activities, and composting activities by cities and counties under  
20 RCW 70A.200.190, to be administered by the department of ecology;  
21 (ii) any unspent funds under (b) (i) of this subsection may be used to  
22 create and pay for a matching fund competitive grant program to be  
23 used by local governments for the development and implementation of  
24 contamination reduction and outreach plans for inclusion in  
25 comprehensive solid waste management plans or by local governments  
26 and nonprofit organizations for local or statewide education programs  
27 designed to help the public with litter control, waste reduction,  
28 recycling, and composting of primarily the products taxed under  
29 chapter 82.19 RCW. Recipients under this subsection include programs  
30 to reduce wasted food and food waste that are designed to achieve the  
31 goals established in RCW 70A.205.715(1) and that are consistent with  
32 the plan developed in RCW 70A.205.715(3). Grants must adhere to the  
33 following requirements: (A) No grant may exceed sixty thousand  
34 dollars; (B) grant recipients shall match the grant funding allocated  
35 by the department by an amount equal to twenty-five percent of  
36 eligible expenses. A local government's share of these costs may be  
37 met by cash or contributed services; (C) the obligation of the  
38 department to make grant payments is contingent upon the availability  
39 of the amount of money appropriated for this subsection (1) (b); and

1 (D) grants are managed under the guidelines for existing grant  
2 programs; ~~((and))~~

3 (c) ~~((Forty))~~ Beginning June 30, 2021, until June 30, 2022:

4 (i) Four percent to the department of ecology to implement and  
5 enforce chapter 70A.--- RCW (the new chapter created in section 13 of  
6 this act);

7 (ii) Thirty-six percent to the department of ecology to: ~~((+i))~~

8 (A) Implement activities under RCW 70A.200.150 for waste reduction,  
9 recycling, and composting efforts; ~~((+ii))~~ (B) provide technical  
10 assistance to local governments and commercial businesses to increase  
11 recycling markets and recycling and composting programs primarily for  
12 the products taxed under chapter 82.19 RCW designed to educate  
13 citizens about waste reduction, litter control, and recyclable and  
14 compostable products and programs; ~~((+iii))~~ (C) increase access to  
15 waste reduction, composting, and recycling programs, particularly for  
16 food packaging and plastic bags and appropriate composting  
17 techniques; and ~~((+iv))~~ (D) for programs to reduce wasted food and  
18 food waste that are designed to achieve the goals established in RCW  
19 70A.205.715(1) and that are consistent with the plan developed in RCW  
20 70A.205.715(3); and

21 (d) After June 30, 2022, 40 percent to the department of ecology:

22 (i) To implement activities under RCW 70A.200.150 for waste  
23 reduction, recycling, and composting efforts; (ii) to provide  
24 technical assistance to local governments and commercial businesses  
25 to increase recycling markets and recycling and composting programs  
26 primarily for the products taxed under chapter 82.19 RCW designed to  
27 educate citizens about waste reduction, litter control, and  
28 recyclable and compostable products and programs; (iii) to increase  
29 access to waste reduction, composting, and recycling programs,  
30 particularly for food packaging and plastic bags and appropriate  
31 composting techniques; and (iv) for programs to reduce wasted food  
32 and food waste that are designed to achieve the goals established in  
33 RCW 70A.205.715(1) and that are consistent with the plan developed in  
34 RCW 70A.205.715(3).

35 (2) All taxes imposed in RCW 82.19.010 and fines and bail  
36 forfeitures collected or received pursuant to this chapter shall be  
37 deposited in the waste reduction, recycling, and litter control  
38 account and used for the programs under subsection (1) of this  
39 section.

1 (3) Not less than five percent and no more than ten percent of  
2 the amount appropriated into the waste reduction, recycling, and  
3 litter control account every biennium shall be reserved for capital  
4 needs, including the purchase of vehicles for transporting crews and  
5 for collecting litter and solid waste. Capital funds shall be  
6 distributed among state agencies and local governments according to  
7 the same criteria provided in RCW 70A.200.170 for the remainder of  
8 the funds, so that the most effective waste reduction, litter  
9 control, recycling, and composting programs receive the most funding.  
10 The intent of this subsection is to provide funds for the purchase of  
11 equipment that will enable the department to account for the greatest  
12 return on investment in terms of reaching a zero litter goal.

13 (4) Funds in the waste reduction, recycling, and litter control  
14 account, collected under chapter 82.19 RCW, must be prioritized for  
15 the products identified under RCW 82.19.020 solely for the purposes  
16 of recycling, composting, and litter collection, reduction, and  
17 control programs.

18 **Sec. 11.** RCW 43.21B.110 and 2020 c 138 s 11 and 2020 c 20 s 1035  
19 are each reenacted and amended to read as follows:

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

27 (a) Civil penalties imposed pursuant to RCW 18.104.155,  
28 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070,  
29 70A.515.060, 76.09.170, 77.55.440, 78.44.250, 88.46.090, 90.03.600,  
30 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

31 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,  
32 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070,  
33 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

34 (c) Except as provided in RCW 90.03.210(2), the issuance,  
35 modification, or termination of any permit, certificate, or license  
36 by the department or any air authority in the exercise of its  
37 jurisdiction, including the issuance or termination of a waste  
38 disposal permit, the denial of an application for a waste disposal  
39 permit, the modification of the conditions or the terms of a waste

1 disposal permit, or a decision to approve or deny an application for  
2 a solid waste permit exemption under RCW 70A.205.260.

3 (d) Decisions of local health departments regarding the grant or  
4 denial of solid waste permits pursuant to chapter 70A.205 RCW.

5 (e) Decisions of local health departments regarding the issuance  
6 and enforcement of permits to use or dispose of biosolids under RCW  
7 70A.226.090.

8 (f) Decisions of the department regarding waste-derived  
9 fertilizer or micronutrient fertilizer under RCW 15.54.820, and  
10 decisions of the department regarding waste-derived soil amendments  
11 under RCW 70A.205.145.

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

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

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

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

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

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

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



1       (n) Decisions of the department of ecology that are appealable  
2 under sections 3 and 5 of this act, to set minimum postconsumer  
3 recycled content for plastic packaging and to assess fees.

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       NEW SECTION. Sec. 12. Nothing in this act changes or limits the  
19 authority of the Washington utilities and transportation commission  
20 to regulate collection of solid waste, including curbside collection  
21 of residential recyclable materials, nor does this chapter change or  
22 limit the authority of a city or town to provide the service itself  
23 or by contract under RCW 81.77.020.

24       NEW SECTION. Sec. 13. Sections 1 through 8 of this act  
25 constitute a new chapter in Title 70A RCW.

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