
SENATE BILL 5731

State of Washington

67th Legislature

2022 Regular Session

By Senators Das and Lovelett

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1 AN ACT Relating to organic materials management; amending RCW
2 70A.205.040, 69.80.031, 69.80.040, 89.08.615, 43.155.020, 36.70.330,
3 39.30.040, 70A.455.010, 70A.455.020, 70A.455.040, 70A.455.050,
4 70A.455.060, 70A.455.070, 70A.455.080, 70A.455.090, and 70A.455.100;
5 reenacting and amending RCW 43.21B.110 and 43.21B.300; adding new
6 sections to chapter 70A.205 RCW; adding a new section to chapter
7 43.21C RCW; adding a new section to chapter 36.70A RCW; adding a new
8 section to chapter 35.63 RCW; adding a new section to chapter 35A.63
9 RCW; adding new sections to chapter 43.19A RCW; adding new sections
10 to chapter 70A.455 RCW; adding a new chapter to Title 70A RCW;
11 creating new sections; repealing RCW 70A.455.110 and 70A.455.900;
12 prescribing penalties; and providing an expiration date.

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

14 NEW SECTION. **Sec. 1.** (1) The legislature finds that landfills
15 are a significant source of emissions of methane, a potent greenhouse
16 gas. Among other economic and environmental benefits, the diversion
17 of organic materials to productive uses will reduce methane
18 emissions.

19 (2) In order to reduce methane emissions associated with organic
20 materials, the legislature finds that it will be beneficial to
21 improve a variety of aspects of how organic materials are reduced,

1 managed, incentivized, and regulated under state law. Therefore, it
2 is the intent of the legislature to support the diversion of organic
3 materials from landfills through a variety of interventions to
4 support productive uses of organic material wastes, including by:

5 (a) Requiring some local governments to begin providing separated
6 organic material collection services within their jurisdictions in
7 order to increase volumes of organic materials collected and
8 delivered to composting and other organic material management
9 facilities and reduce the volumes of organic materials collected in
10 conjunction with other solid waste and delivered to landfills;

11 (b) Requiring local governments to consider state organic
12 material management goals and requirements in the development of
13 their local solid waste plans;

14 (c) Requiring some businesses to manage their organic wastes in a
15 manner that does not involve landfilling them, in order to address
16 one significant source of organic materials that currently frequently
17 end up in landfills;

18 (d) Reducing legal liability risk barriers to the donation of
19 edible food in order to encourage the recovery of foods that might
20 otherwise be landfilled;

21 (e) Establishing the Washington center for sustainable food
22 management within the department of ecology in order to coordinate
23 and improve statewide food waste reduction and diversion efforts;

24 (f) Establishing various new funding and financial incentives
25 intended to increase composting and other forms of productive organic
26 materials management, helping to make the responsible management of
27 organic materials more cost-competitive with landfilling of organic
28 wastes;

29 (g) Facilitating the siting of organic material management
30 facilities in order to ensure that adequate capacity exists to
31 process organic materials at the volumes necessary to achieve state
32 organic material diversion goals;

33 (h) Requiring local governments to procure more of the compost
34 and finished products created from their organic material wastes in
35 order to support the economic viability of processes to turn organic
36 materials into finished products, and increasing the likelihood that
37 composting and other responsible organic material management options
38 are economically viable; and

39 (i) Amending standards related to the labeling of plastic and
40 compostable products in order to reduce contamination of the waste

1 streams handled by compost and organic material management facilities
2 and improve the economic viability of those responsible organic
3 material management options.

4 **PART 1**

5 **State Targets and Organic Waste Collection Requirements**

6 NEW SECTION. **Sec. 101.** A new section is added to chapter
7 70A.205 RCW to read as follows:

8 (1) (a) The state establishes a goal for the landfill disposal of
9 organic materials at a level representing a 75 percent reduction by
10 2030 in the statewide disposal of organic waste, relative to 2015
11 levels.

12 (b) The state establishes a goal that no less than 20 percent of
13 the volume of edible food that was disposed of as of 2015 be
14 recovered for human consumption by 2025.

15 (2) The provisions of subsection (1) of this section are in
16 addition to the food waste reduction goals of RCW 70A.205.715(1).

17 (3) For the purposes of this section, "organic materials" means
18 any solid waste that is a biological substance of plant or animal
19 origin capable of microbial degradation. Organic materials include,
20 but are not limited to, manure, yard debris, food waste, food
21 processing wastes, wood waste, and garden wastes.

22 NEW SECTION. **Sec. 102.** A new section is added to chapter
23 70A.205 RCW to read as follows:

24 (1) Beginning January 1, 2027, each jurisdiction that implements
25 a local solid waste plan under RCW 70A.205.040 must:

26 (a) Provide within the jurisdiction organic solid waste
27 collection services to all residents and to businesses that generate
28 more than .5 cubic yard of organic materials for management; and

29 (b) Provide for the organic materials management of all organic
30 solid waste collected from residents and businesses under (a) of this
31 subsection.

32 (2) A jurisdiction may charge and collect fees or rates for the
33 services provided under subsection (1) of this section, consistent
34 with the jurisdiction's authority to impose fees and rates under
35 chapters 35.21, 35A.21, 36.58, and 36.58A RCW.

1 (3) (a) Except as provided in (d) of this subsection, the
2 requirements of this section do not apply in a jurisdiction if the
3 department determines that the following apply:

4 (i) The jurisdiction disposed of less than 5,000 tons of solid
5 waste in the most recent year for which data is available; or

6 (ii) The jurisdiction has a total population of less than 25,000
7 people.

8 (b) The requirements of this section do not apply in census
9 tracts that have a population density of less than 75 people per
10 square mile that are serviced by the jurisdiction and located in
11 unincorporated portions of a county, as determined by the department.

12 (c) In addition to the exemptions in (b) of this subsection, the
13 department may issue a waiver to jurisdictions or portions of a
14 jurisdiction under this subsection for up to five years, based on
15 consideration of factors including the distance to organic materials
16 management facilities, the capacity at the facilities to manage
17 additional organic materials, and restrictions in the transport of
18 organic materials under chapter 17.24 RCW. The department may adopt
19 rules to specify the type of information that a waiver applicant must
20 submit to the department and to specify the department's process for
21 reviewing and approving waiver applications.

22 (d) Beginning January 1, 2030, the department may adopt a rule to
23 require that the provisions of this section apply in the
24 jurisdictions identified in (b) and (c) of this subsection, but only
25 if the department determines that the goals established in section
26 101(1) of this act have not or will not be achieved.

27 (4) For the purposes of this section, "organic materials
28 management" means management of organic materials through composting,
29 anaerobic digestion, vermiculture, black soldier fly, or similar
30 technologies.

31 **Sec. 103.** RCW 70A.205.040 and 2010 c 154 s 2 are each amended to
32 read as follows:

33 (1) Each county within the state, in cooperation with the various
34 cities located within such county, shall prepare a coordinated,
35 comprehensive solid waste management plan. Such plan may cover two or
36 more counties. The purpose is to plan for solid waste and materials
37 reduction, collection, and handling and management services and
38 programs throughout the state, as designed to meet the unique needs
39 of each county and city in the state. When updating a solid waste

1 management plan developed under this chapter, after June 10, 2010,
2 local comprehensive plans must consider and plan for the following
3 handling methods or services:

4 (a) Source separation of recyclable materials and products,
5 organic materials, and wastes by generators;

6 (b) Collection of source separated materials;

7 (c) Handling and proper preparation of materials for reuse or
8 recycling;

9 (d) Handling and proper preparation of organic materials for
10 (~~composting or anaerobic digestion~~) organic materials management;
11 and

12 (e) Handling and proper disposal of nonrecyclable wastes.

13 (2) When updating a solid waste management plan developed under
14 this chapter, after June 10, 2010, each local comprehensive plan
15 must, at a minimum, consider methods that will be used to address the
16 following:

17 (a) Construction and demolition waste for recycling or reuse;

18 (b) Organic material including yard debris, food waste, and food
19 contaminated paper products for (~~composting or anaerobic digestion~~)
20 organic materials management;

21 (c) Recoverable paper products for recycling;

22 (d) Metals, glass, and plastics for recycling; and

23 (e) Waste reduction strategies.

24 (3) (a) When newly developing, updating, or amending a solid waste
25 management plan developed under this chapter, after July 1, 2022,
26 each local comprehensive plan must consider the transition to the
27 requirements of section 102 of this act, and must identify:

28 (i) The priority areas within the jurisdiction for the
29 establishment of organic materials management facilities. Priority
30 areas must be in industrial zones and may not be located in
31 overburdened communities identified by the department of health under
32 chapter 70A.02 RCW; and

33 (ii) Organic materials management facility volumetric capacity
34 required to manage the jurisdiction's organic materials in a manner
35 consistent with the goals of section 101 of this act.

36 (b) When newly developing, updating, or amending a solid waste
37 management plan developed under this chapter, after January 1, 2027,
38 each local comprehensive plan must be consistent with the
39 requirements of section 102 of this act.

40 (4) Each city shall:

1 (a) Prepare and deliver to the county auditor of the county in
2 which it is located its plan for its own solid waste management for
3 integration into the comprehensive county plan;

4 (b) Enter into an agreement with the county pursuant to which the
5 city shall participate in preparing a joint city-county plan for
6 solid waste management; or

7 (c) Authorize the county to prepare a plan for the city's solid
8 waste management for inclusion in the comprehensive county plan.

9 ~~((4))~~ (5) Two or more cities may prepare a plan for inclusion
10 in the county plan. With prior notification of its home county of its
11 intent, a city in one county may enter into an agreement with a city
12 in an adjoining county, or with an adjoining county, or both, to
13 prepare a joint plan for solid waste management to become part of the
14 comprehensive plan of both counties.

15 ~~((5))~~ (6) After consultation with representatives of the cities
16 and counties, the department shall establish a schedule for the
17 development of the comprehensive plans for solid waste management. In
18 preparing such a schedule, the department shall take into account the
19 probable cost of such plans to the cities and counties.

20 ~~((6))~~ (7) Local governments shall not be required to include a
21 hazardous waste element in their solid waste management plans.

22 **PART 2**

23 **Requirements for Organics Management by Businesses**

24 NEW SECTION. **Sec. 201.** A new section is added to chapter
25 70A.205 RCW to read as follows:

26 (1)(a) Beginning July 1, 2025, and each July 1st thereafter, the
27 department must determine which counties and any cities preparing
28 independent solid waste management plans:

29 (i) Provide for businesses to be serviced by providers that
30 collect food waste and organic waste for delivery to solid waste
31 facilities that provide for the organic materials management of
32 organic waste and food waste; and

33 (ii) Are serviced by solid waste facilities that provide for the
34 organic materials management of organic waste and food waste and have
35 capacity to accept increased volumes of organic materials deliveries.

36 (b)(i) The department must determine and designate that the
37 restrictions of this section apply to businesses in a jurisdiction

1 unless the department determines that the businesses in some or all
2 portions of the city or county have:

3 (A) No available businesses that collect and deliver organic
4 materials to solid waste facilities that provide for the organic
5 materials management of organic waste and food waste; or

6 (B) No available capacity at the solid waste facilities to which
7 businesses that collect and deliver organic materials could feasibly
8 and economically deliver organic materials from the jurisdiction.

9 (ii)(A) In the event that a county or city provides written
10 notification indicating that the criteria of (b)(i)(A) of this
11 subsection are met, then the restrictions of this section apply only
12 in those portions of the jurisdiction that have available service-
13 providing businesses.

14 (B) In the event that a county or city provides written
15 notification indicating that the criteria of (b)(i)(B) of this
16 subsection are met, then the restrictions of this section do not
17 apply to the jurisdiction.

18 (c) The department must make the result of the annual
19 determinations required under this section available on its website.

20 (d) The requirements of this section may be enforced by
21 jurisdictional health departments consistent with this chapter.

22 (2) Counting only wastes that are not managed on-site by
23 businesses for purposes of determining waste volumes:

24 (a) Beginning January 1, 2024, a business that generates at least
25 eight cubic yards of organic waste per week must arrange for organic
26 materials management services specifically for organic waste;

27 (b) Beginning January 1, 2025, a business that generates at least
28 four cubic yards of organic waste per week must arrange for organic
29 materials management services specifically for organic waste; and

30 (c) Beginning January 1, 2026, a business that generates at least
31 four cubic yards of solid waste per week shall arrange for organic
32 materials management services specifically for organic waste, unless
33 the department determines, by rule, that additional reductions in the
34 landfilling of organic materials would be more appropriately and
35 effectively achieved, at reasonable cost to regulated businesses,
36 through the establishment of a different volumetric threshold of
37 solid waste or organic waste than the threshold of four cubic yards
38 of solid waste per week.

39 (3) A business may fulfill the requirements of this section by:

1 (a) Source separating organic waste from other waste and
2 subscribing to a service that includes organic waste collection and
3 organic materials management;

4 (b) Managing its organic waste on-site or self-haul its own
5 organic waste for organic materials management; or

6 (c) Qualifying for exclusion from the requirements of this
7 section consistent with subsection (1)(b) of this section.

8 (4) A business generating organic waste shall arrange for the
9 services required by this section in a manner that is consistent with
10 state and local laws and requirements applicable to the collection,
11 handling, or recycling of solid and organic waste.

12 (5) When arranging for gardening or landscaping services, the
13 contract or work agreement between a business subject to this section
14 and a gardening or landscaping service must require that the organic
15 waste generated by those services be managed in compliance with this
16 chapter.

17 (6)(a) This section does not limit the authority of a local
18 governmental agency to adopt, implement, or enforce a local organic
19 waste recycling requirement, or a condition imposed upon a self-
20 hauler, that is more stringent or comprehensive than the requirements
21 of this chapter.

22 (b) This section does not modify, limit, or abrogate in any
23 manner any of the following:

24 (i) A franchise granted or extended by a city, county, city and
25 county, or other local governmental agency;

26 (ii) A contract, license, certificate, or permit to collect solid
27 waste previously granted or extended by a city, county, city and
28 county, or other local governmental agency;

29 (iii) The existing right of a business to sell or donate its
30 organic materials; and

31 (iv) A certificate of convenience and necessity issued to a solid
32 waste collection company under chapter 81.77 RCW.

33 (c) Nothing in this section modifies, limits, or abrogates the
34 authority of a local jurisdiction with respect to land use, zoning,
35 or facility siting decisions by or within that local jurisdiction.

36 (d) Nothing in this section changes or limits the authority of
37 the Washington utilities and transportation commission to regulate
38 collection of solid waste, including curbside collection of
39 residential recyclable materials, nor does this section change or

1 limit the authority of a city or town to provide the service itself
2 or by contract under RCW 81.77.020.

3 (7) The definitions in this subsection apply throughout this
4 section unless the context clearly indicates otherwise.

5 (a) (i) "Business" means a commercial or public entity including,
6 but not limited to, a firm, partnership, proprietorship, joint stock
7 company, corporation, or association that is organized as a for-
8 profit or nonprofit entity.

9 (ii) "Business" does not include a multifamily residential
10 entity.

11 (b) "Food waste" has the same meaning as defined in RCW
12 70A.205.715.

13 (c) "Organic materials" means any solid waste that is a
14 biological substance of plant or animal origin capable of microbial
15 degradation. Organic materials include, but are not limited to,
16 manure, yard debris, food waste, food processing wastes, wood waste,
17 and garden wastes.

18 (d) "Organic materials management" means management of organic
19 materials through composting, anaerobic digestion, vermiculture,
20 black soldier fly, or similar technologies.

21 PART 3

22 Updates to the Washington Good Samaritan Act

23 **Sec. 301.** RCW 69.80.031 and 1994 c 299 s 36 are each amended to
24 read as follows:

25 (1) This section may be cited as the "good samaritan food
26 donation act."

27 (2) (~~(As used in this section:)~~) The definitions in this
28 subsection apply throughout this section unless the context clearly
29 requires otherwise.

30 (a) "Apparently fit grocery product" means a grocery product that
31 meets (~~(all quality and)~~) safety and safety-related labeling
32 standards imposed by federal, state, and local laws and regulations
33 even though the product may not be readily marketable due to
34 appearance, age, freshness, grade, size, surplus, passage of a date
35 on a date label other than a safety or safety-related labeling of a
36 date, or other conditions.

37 (b) "Apparently wholesome food" means food that meets (~~(all~~
38 ~~quality and)~~) safety and safety-related labeling standards imposed by

1 federal, state, and local laws and regulations even though the food
2 may not be readily marketable due to appearance, age, freshness,
3 grade, size, surplus, passage of a date on a date label other than a
4 safety or safety-related labeling of a date, or other conditions.

5 (c) "Donate" means to give without requiring anything of monetary
6 value from the recipient, except that the term shall include giving
7 by a nonprofit organization to another nonprofit organization,
8 notwithstanding that the donor organization has charged a nominal fee
9 to the donee organization, if the ultimate recipient or user is not
10 required to give anything of monetary value or is charged only a good
11 samaritan reduced price.

12 (d) "Food" means a raw, cooked, processed, or prepared edible
13 substance, ice, beverage, or ingredient used or intended for use in
14 whole or in part for human consumption.

15 (e) "Gleaner" means a person who harvests for free distribution
16 to the needy, or for donation to a nonprofit organization for
17 ultimate distribution to the needy, an agricultural crop that has
18 been donated by the owner.

19 (f) "Good samaritan reduced price" means the price of an
20 apparently wholesome food or an apparently fit grocery product that
21 is an amount not greater than the cost of handling, administering,
22 and distributing the apparently wholesome food or apparently fit
23 grocery product.

24 (g) "Grocery product" means a nonfood grocery product, including
25 a disposable paper or plastic product, household cleaning product,
26 laundry detergent, cleaning product, or miscellaneous household item.

27 (~~(g)~~) (h) "Gross negligence" means voluntary and conscious
28 conduct by a person with knowledge, at the time of the conduct, that
29 the conduct is likely to be harmful to the health or well-being of
30 another person.

31 (~~(h)~~) (i) "Intentional misconduct" means conduct by a person
32 with knowledge, at the time of the conduct, that the conduct is
33 harmful to the health or well-being of another person.

34 (~~(i)~~) (j) "Nonprofit organization" means an incorporated or
35 unincorporated entity that:

36 (i) Is operating for religious, charitable, or educational
37 purposes; and

38 (ii) Does not provide net earnings to, or operate in any other
39 manner that inures to the benefit of, any officer, employee, or
40 shareholder of the entity.

1 (~~(j)~~) (k) "Person" means an individual, corporation,
2 partnership, organization, association, or governmental entity,
3 including a retail grocer, wholesaler, hotel, motel, manufacturer,
4 restaurant, caterer, farmer, and nonprofit food distributor or
5 hospital. In the case of a corporation, partnership, organization,
6 association, or governmental entity, the term includes an officer,
7 director, partner, deacon, trustee, councilmember, or other elected
8 or appointed individual responsible for the governance of the entity.

9 (l) "Qualified direct donor" means any person required to obtain
10 a food establishment permit under chapter 246-215 WAC, as it existed
11 as of January 1, 2022, including a retail grocer, wholesaler,
12 agricultural producer, restaurant, caterer, school food authority, or
13 institution of higher education as defined in RCW 28B.10.016.

14 (m) (i) "Safety and safety-related labeling" means a marking
15 intended to communicate information to a consumer related to a food
16 product's safety. "Safety and safety-related labeling" includes any
17 marking that federal or state law requires to be affixed to a food
18 product including, but not limited to, markings placed on infant
19 formula consistent with 21 C.F.R. Sec. 107.20, as that regulation
20 existed as of January 1, 2021.

21 (ii) "Safety and safety-related labeling" does not include a pull
22 date required to be placed on perishable packaged food under RCW
23 15.130.300 or a "best by," "best if used by," "use by," or "sell by"
24 date or similarly phrased date intended to communicate information to
25 a consumer regarding the freshness or quality of a food product.

26 (3) (a) A person or gleaner is not subject to civil or criminal
27 liability arising from the nature, age, packaging, or condition of
28 apparently wholesome food or an apparently fit grocery product that
29 the person or gleaner donates in good faith or sells at a good
30 samaritan reduced price to a nonprofit organization for ultimate sale
31 at a good samaritan reduced price, donation, or other distribution to
32 needy individuals, except that this subsection does not apply to an
33 injury to or death of an ultimate user or recipient of the food or
34 grocery product that results from an act or omission of the donor
35 constituting gross negligence or intentional misconduct.

36 (b) A qualified direct donor may donate food directly to end
37 recipients for consumption. A qualified direct donor is not subject
38 to civil or criminal liability arising from the nature, age,
39 packaging, or condition of apparently wholesome food or an apparently
40 fit grocery product that the qualified direct donor donates in good

1 faith or sells at a good samaritan reduced price to a needy
2 individual. The donation of nonperishable food that is fit for human
3 consumption, but that has exceeded the labeled shelf-life date
4 recommended by the manufacturer, is an activity covered by the
5 exclusion from civil or criminal liability under this section. The
6 donation of perishable food that is fit for human consumption, but
7 that has exceeded the labeled shelf-life date recommended by the
8 manufacturer, is an activity covered by the exclusion from civil or
9 criminal liability under this section if the person that distributes
10 the food to the end recipient makes a good faith evaluation that the
11 food to be donated is wholesome.

12 (4) A person who allows the collection or gleaning of donations
13 on property owned or occupied by the person by gleaners, or paid or
14 unpaid representatives of a nonprofit organization, for ultimate
15 distribution to needy individuals is not subject to civil or criminal
16 liability that arises due to the injury or death of the gleaner or
17 representative, except that this subsection does not apply to an
18 injury or death that results from an act or omission of the person
19 constituting gross negligence or intentional misconduct.

20 (5) If some or all of the donated food and grocery products do
21 not meet ((~~all quality and~~)) safety and safety-related labeling
22 standards imposed by federal, state, and local laws and regulations,
23 the person or gleaner who donates the food and grocery products is
24 not subject to civil or criminal liability in accordance with this
25 section if the nonprofit organization that receives the donated food
26 or grocery products:

27 (a) Is informed by the donor of the distressed or defective
28 condition of the donated food or grocery products;

29 (b) Agrees to recondition the donated food or grocery products to
30 comply with all the ((~~quality and~~)) safety and safety-related
31 labeling standards prior to distribution; and

32 (c) Is knowledgeable of the standards to properly recondition the
33 donated food or grocery product.

34 (6) This section may not be construed to create liability.

35 **PART 4**
36 **Washington Center for Sustainable Food Management**

1 NEW SECTION. **Sec. 401.** The definitions in this section apply
2 throughout this chapter unless the context clearly requires
3 otherwise.

4 (1) "Center" means the Washington center for sustainable food
5 management.

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

7 (3) "Plan" means the use food well Washington plan developed
8 under RCW 70A.205.715.

9 NEW SECTION. **Sec. 402.** (1) The Washington center for
10 sustainable food management is established within the department, to
11 begin operations by January 1, 2024.

12 (2) The purpose of the center is to help coordinate statewide
13 food waste reduction.

14 (3) The center may perform the following activities:

15 (a) Coordinate the implementation of the plan;

16 (b) Draft plan updates and measure progress towards actions,
17 strategies, and the statewide goals established in section 101 of
18 this act and RCW 70A.205.715(1);

19 (c) Maintain a website with current food waste reduction
20 information and guidance for food service establishments, consumers,
21 food processors, hunger relief organizations, and other sources of
22 food waste;

23 (d) Provide staff support to multistate food waste reduction
24 initiatives in which the state is participating;

25 (e) Maintain the consistency of the plan and other food waste
26 reduction activities with the work of the Washington state
27 conservation commission's food policy forum;

28 (f) Facilitate and coordinate public-private and nonprofit
29 partnerships focused on food waste reduction, including through
30 voluntary working groups;

31 (g) Collaborate with federal, state, and local government
32 partners on food waste reduction initiatives;

33 (h) Develop and maintain maps or lists of locations of the food
34 systems of Washington that identify food flows, where waste occurs,
35 and opportunities to prevent food waste;

36 (i) Collect and maintain data on food waste and wasted food in a
37 manner that is generally consistent with the methods of collecting
38 and maintaining such data used by federal agencies or in other
39 jurisdictions, or both, to the greatest extent practicable;

1 (j) Research and develop emerging organics and food waste
2 reduction markets;

3 (k)(i) Develop and maintain statewide food waste reduction and
4 food waste contamination reduction campaigns, in consultation with
5 other state agencies and other stakeholders, including the
6 development of waste prevention and food waste recovery promotional
7 materials for distribution. These promotional materials may include
8 online information, newsletters, bulletins, or handouts that inform
9 food service establishment operators about the protections from civil
10 and criminal liability under federal law and under RCW 69.80.031 when
11 donating food; and

12 (ii) Develop guidance in support of distribution of promotional
13 materials, including by:

14 (A) Local health officers, at no cost to regulated food service
15 establishments, including as part of normal, routine inspections of
16 food service establishments; and

17 (B) State agencies, including the department of health and the
18 department of agriculture, in conjunction with their statutory roles
19 and responsibilities in regulating, monitoring, and supporting safe
20 food supply chains and systems; and

21 (1) Distribute and monitor grants dedicated to food waste
22 prevention, rescue, and recovery.

23 (4) The department may enter into an interagency agreement with
24 the department of health, the department of agriculture, or other
25 state agencies as necessary to fulfill the responsibilities of the
26 center.

27 (5) The department may adopt any rules necessary to implement and
28 enforce this chapter including, but not limited to, measures for the
29 center's performance.

30 NEW SECTION. **Sec. 403.** (1) The center must, by January 1, 2025,
31 and in consultation with the office of the attorney general, research
32 and adopt several model ordinances for optional use by counties and
33 cities that provide for model mechanisms for commercial solid waste
34 collection and disposal that are designed, in part, to establish a
35 financial disincentive or other disincentives for the generation of
36 organic waste and for the ultimate disposal of organic materials in
37 landfills. The model ordinances must be designed to provide options
38 that might be preferred by jurisdictions of different sizes and

1 consider other key criteria applicable to local solid waste
2 management circumstances.

3 (2) (a) The department must review the model ordinances created in
4 this section under the provisions of chapter 43.21C RCW.

5 (b) A county or city that adopts a model ordinance created by the
6 center under this section and that has been reviewed by the
7 department under the provisions of chapter 43.21C RCW is not required
8 to review the ordinance under the provisions of chapter 43.21C RCW.

9 (3) No city, town, or county is required to adopt the model
10 ordinances created in this section.

11 NEW SECTION. **Sec. 404.** A new section is added to chapter 43.21C
12 RCW to read as follows:

13 Amendments to regulations and other nonproject actions taken by a
14 city or county to adopt or implement the model ordinance created by
15 the Washington center for sustainable food management under section
16 403 of this act is not subject to the requirements of this chapter.

17 NEW SECTION. **Sec. 405.** A new section is added to chapter
18 70A.205 RCW to read as follows:

19 (1) In order to obtain data as necessary to support the goals of
20 the Washington center for sustainable food management created in
21 section 402 of this act and to achieve the goals of RCW
22 70A.205.715(1), the department may establish a voluntary reporting
23 protocol for the receipt of reports by businesses that donate food
24 under RCW 69.80.031 and recipients of the donated food, and may
25 encourage the use of this voluntary reporting protocol by the
26 businesses and recipients. The department may also request that a
27 donating business or recipient of donated food provide information to
28 the department regarding the volumes, types, and timing of food
29 managed by the facility, and food waste and wasted food generated by
30 the facility. To the extent practicable, the department must seek to
31 obtain information under this section in a manner compatible with any
32 information reported to the department of agriculture under RCW
33 43.23.290, and in a manner that minimizes the reporting and
34 information-provision burdens of donating businesses and recipients.

35 (2) For the purposes of this subsection, "food waste" and "wasted
36 food" have the same meaning as defined in RCW 70A.205.715.

- 1 (c) Down payments on equipment;
- 2 (d) Purchases of equipment;
- 3 (e) Purchase of seed, seedlings, spores, animal feed, and
4 amendments;
- 5 (f) Services to landowners, such as the development of site-
6 specific conservation plans to increase soil organic levels or to
7 increase usage of precision agricultural practices, or design and
8 implementation of best management practices to reduce livestock
9 emissions; (~~and~~)
- 10 (g) The purchase of compost spreading equipment, or financial
11 assistance to farmers to purchase compost spreading equipment, for
12 the annual use for at least three years of volumes of compost
13 determined by the commission to be significant from materials
14 composted at a site that is not owned or operated by the farmer; and
- 15 (h) Other equipment purchases or financial assistance deemed
16 appropriate by the commission to fulfill the intent of RCW 89.08.610
17 through 89.08.635.
- 18 (7) Grant applications are eligible for costs associated with
19 technical assistance.
- 20 (8) Conservation districts and other public entities may apply
21 for a single grant from the commission that serves multiple farmers.
- 22 (9) Grant applicants may apply to share equipment purchased with
23 grant funds. Applicants for equipment purchase grants issued under
24 this grant program may be farm, ranch, or aquaculture operations
25 coordinating as individual businesses or as formal cooperative
26 ventures serving farm, ranch, or aquaculture operations. Conservation
27 districts, separately or jointly, may also apply for grant funds to
28 operate an equipment sharing program.
- 29 (10) No contract for carbon storage or changes to management
30 practices may exceed (~~twenty-five~~) 25 years. Grant contracts that
31 include up-front payments for future benefits must be conditioned to
32 include penalties for default due to negligence on the part of the
33 recipient.
- 34 (11) The commission shall attempt to achieve a geographically
35 fair distribution of funds across a broad group of crop types, soil
36 management practices, and farm sizes.
- 37 (12) Any applications involving state lands leased from the
38 department of natural resources must include the department's
39 approval.

1 NEW SECTION. **Sec. 502.** (1)(a) Subject to the availability of
2 amounts appropriated for this specific purpose, the department of
3 agriculture must establish and implement a three-year compost
4 reimbursement pilot program to reimburse farming operations in the
5 state for purchasing and using compost products that were not
6 generated by the farming operation, including transportation,
7 equipment, spreading, and labor costs. The grant reimbursements under
8 the pilot program begin July 1, 2023, and conclude June 30, 2026.

9 (b) For the purposes of this program, "farming operation" means:
10 A commercial agricultural, silvicultural, or aquacultural facility or
11 pursuit, including the care and production of livestock and livestock
12 products, poultry and poultry products, apiary products, and plant
13 and animal production for nonfood uses; the planting, cultivating,
14 harvesting, and processing of crops; and the farming or ranching of
15 any plant or animal species in a controlled salt, brackish, or
16 freshwater environment.

17 (2) To be eligible to participate in the reimbursement pilot
18 program, a farming operation must complete an eligibility review with
19 the department of agriculture prior to transporting or applying any
20 compost products for which reimbursement is sought under this
21 section. The purpose of the review is for the department of
22 agriculture to ensure that the proposed transport and application of
23 compost products is consistent with the department's agricultural
24 pest control rules established under chapter 17.24 RCW. A farming
25 operation must also verify that it will allow soil sampling to be
26 conducted by the department of agriculture upon request during the
27 duration of the pilot program as necessary to establish a baseline of
28 soil quality and carbon storage and for subsequent department of
29 agriculture evaluations to assist the department's reporting
30 requirements under subsection (9) of this section.

31 (3) The department of agriculture must create a form for eligible
32 farming operations to apply for cost reimbursement for costs from
33 purchasing and using compost from facilities with solid waste
34 handling permits, including transportation, equipment, spreading, and
35 labor costs. All applications for cost reimbursement must be
36 submitted on the form along with invoices, receipts, or other
37 documentation acceptable to the department of the costs of purchasing
38 and using compost products for which the applicant is requesting
39 reimbursement, as well as a brief description of what each purchased
40 item will be used for. The department of agriculture may request that

1 an applicant provide information to verify the source, size, sale
2 weight, or amount of compost products purchased and the cost of
3 transportation, equipment, spreading, and labor. The applicant must
4 also declare that it is not seeking reimbursement for purchase or
5 labor costs for:

6 (a) Its own compost products; or

7 (b) Compost products that it has transferred, or intends to
8 transfer, to another individual or entity, whether or not for
9 compensation.

10 (4) A farming operation may submit only one application per
11 fiscal year for purchases made and usage costs incurred during the
12 fiscal year that begins on July 1st and ends on June 30th of each
13 fiscal year in which the pilot program is in effect. Applications for
14 reimbursement must be filed before the end of the fiscal year in
15 which purchases were made and usage costs incurred.

16 (5) The department of agriculture must distribute reimbursement
17 funds, subject to the following limitations:

18 (a) A farming operation is not eligible to receive reimbursement
19 if the farming operation's application was not found eligible for
20 reimbursement by the department of agriculture prior to transport or
21 use under subsection (2) of this section;

22 (b) A farming operation is not eligible to receive reimbursement
23 for more than 50 percent of the costs it incurs each fiscal year for
24 the purchase and use of compost products, including transportation,
25 equipment, spreading, and labor costs;

26 (c) A farming operation is not eligible to receive more than
27 \$10,000 per fiscal year;

28 (d) A farming operation is not eligible to receive reimbursement
29 for its own compost products or compost products that it has
30 transferred, or intends to transfer, to another individual or entity,
31 whether or not for compensation; and

32 (e) A farming operation is not eligible to receive reimbursement
33 for compost products that were not purchased from a facility with a
34 solid waste handling permit.

35 (6) The applicant shall indemnify and hold harmless the state and
36 its officers, agents, and employees from all claims arising out of or
37 resulting from the compost products purchased that are subject to the
38 compost reimbursement pilot program under this section.

39 (7) There is established within the department of agriculture a
40 compost reimbursement pilot program manager position. The compost

1 reimbursement pilot program manager must possess knowledge and
2 expertise in the area of program management necessary to carry out
3 the duties of the position, which are to:

4 (a) Facilitate the division and distribution of available costs
5 for reimbursement; and

6 (b) Manage the day-to-day coordination of the compost
7 reimbursement pilot program.

8 (8) Any action taken by the department of agriculture pursuant to
9 this section is exempt from the rule-making requirements of chapter
10 34.05 RCW.

11 (9) In compliance with RCW 43.01.036, the department of
12 agriculture must submit an annual report to the appropriate
13 committees of the legislature by January 15th of each year of the
14 program, with a final report due January 15, 2026. The report must
15 include:

16 (a) The amount of compost for which reimbursement was sought
17 under the program;

18 (b) The qualitative or quantitative effects of the program on
19 soil quality and carbon storage; and

20 (c) An evaluation of the benefits and costs to the state of
21 continuing, expanding, or furthering the strategies explored in the
22 pilot program.

23 (10) This section expires June 30, 2027.

24 **Sec. 503.** RCW 43.155.020 and 2017 3rd sp.s. c 10 s 2 are each
25 amended to read as follows:

26 The definitions in this section apply throughout this chapter
27 unless the context clearly requires otherwise.

28 (1) "Board" means the public works board created in RCW
29 43.155.030.

30 (2) "Capital facility plan" means a capital facility plan
31 required by the growth management act under chapter 36.70A RCW or,
32 for local governments not fully planning under the growth management
33 act, a plan required by the public works board.

34 (3) "Department" means the department of commerce.

35 (4) "Financing guarantees" means the pledge of money in the
36 public works assistance account, or money to be received by the
37 public works assistance account, to the repayment of all or a portion
38 of the principal of or interest on obligations issued by local
39 governments to finance public works projects.

1 (5) "Local governments" means cities, towns, counties, special
2 purpose districts, and any other municipal corporations or quasi-
3 municipal corporations in the state excluding school districts and
4 port districts.

5 (6) "Public works project" means a project of a local government
6 for the planning, acquisition, construction, repair, reconstruction,
7 replacement, rehabilitation, or improvement of streets and roads,
8 bridges, water systems, or storm and sanitary sewage systems, lead
9 remediation of drinking water systems, and solid waste facilities,
10 including recycling facilities and composting and other organic
11 materials management facilities. A planning project may include the
12 compilation of biological, hydrological, or other data on a county,
13 drainage basin, or region necessary to develop a base of information
14 for a capital facility plan.

15 (7) "Solid waste or recycling project" means remedial actions
16 necessary to bring abandoned or closed landfills into compliance with
17 regulatory requirements and the repair, restoration, and replacement
18 of existing solid waste transfer, recycling facilities, and landfill
19 projects limited to the opening of landfill cells that are in
20 existing and permitted landfills.

21 (8) "Technical assistance" means training and other services
22 provided to local governments to: (a) Help such local governments
23 plan, apply, and qualify for loans, grants, and financing guarantees
24 from the board, and (b) help local governments improve their ability
25 to plan for, finance, acquire, construct, repair, replace,
26 rehabilitate, and maintain public facilities.

27 (9) "Value planning" means a uniform approach to assist in
28 decision making through systematic evaluation of potential
29 alternatives to solving an identified problem.

30 PART 6

31 Organic Materials Management Facility Siting

32 **Sec. 601.** RCW 36.70.330 and 1985 c 126 s 3 are each amended to
33 read as follows:

34 The comprehensive plan shall consist of a map or maps, and
35 descriptive text covering objectives, principles and standards used
36 to develop it, and shall include each of the following elements:

37 (1) A land use element which designates the proposed general
38 distribution and general location and extent of the uses of land for

1 agriculture, housing, commerce, industry, recreation, education,
2 public buildings and lands, and other categories of public and
3 private use of land, including a statement of the standards of
4 population density and building intensity recommended for the various
5 areas in the jurisdiction and estimates of future population growth
6 in the area covered by the comprehensive plan, all correlated with
7 the land use element of the comprehensive plan. The land use element
8 shall also provide for protection of the quality and quantity of
9 groundwater used for public water supplies and shall review drainage,
10 flooding, and stormwater runoff in the area and nearby jurisdictions
11 and provide guidance for corrective actions to mitigate or cleanse
12 those discharges that pollute Puget Sound or waters entering Puget
13 Sound. Development regulations to implement comprehensive plans that
14 are newly developed, updated, or amended after January 1, 2023, must
15 allow for the siting of organic materials management facilities in
16 the areas identified in RCW 70A.205.040(3)(a)(i) to the extent
17 necessary to provide for the establishment of the organic materials
18 management volumetric capacity identified under RCW
19 70A.205.040(3)(a)(ii);

20 (2) A circulation element consisting of the general location,
21 alignment and extent of major thoroughfares, major transportation
22 routes, trunk utility lines, and major terminal facilities, all of
23 which shall be correlated with the land use element of the
24 comprehensive plan;

25 (3) Any supporting maps, diagrams, charts, descriptive material
26 and reports necessary to explain and supplement the above elements.

27 NEW SECTION. Sec. 602. A new section is added to chapter 36.70A
28 RCW to read as follows:

29 Development regulations to implement comprehensive plans that are
30 newly developed, updated, or amended after January 1, 2023, must
31 allow for the siting of organic materials management facilities in
32 the areas identified in RCW 70A.205.040(3)(a)(i) to the extent
33 necessary to provide for the establishment of the organic materials
34 management volumetric capacity identified under RCW
35 70A.205.040(3)(a)(ii).

36 NEW SECTION. Sec. 603. A new section is added to chapter 35.63
37 RCW to read as follows:

1 Development regulations to implement comprehensive plans under
2 RCW 35.63.100 that are newly developed, updated, or amended after
3 January 1, 2023, must allow for the siting of organic materials
4 management facilities in the areas identified in RCW
5 70A.205.040(3)(a)(i) to the extent necessary to provide for the
6 establishment of the organic materials management volumetric capacity
7 identified under RCW 70A.205.040(3)(a)(ii).

8 NEW SECTION. **Sec. 604.** A new section is added to chapter 35A.63
9 RCW to read as follows:

10 Development regulations to implement comprehensive plans required
11 under RCW 35A.63.060 that are newly developed, updated, or amended
12 after January 1, 2023, must allow for the siting of organic materials
13 management facilities in the areas identified in RCW
14 70A.205.040(3)(a)(i) to the extent necessary to provide for the
15 establishment of the organic materials management volumetric capacity
16 identified under RCW 70A.205.040(3)(a)(ii).

17 **PART 7**

18 **Organic Materials Procurement**

19 NEW SECTION. **Sec. 701.** A new section is added to chapter 43.19A
20 RCW to read as follows:

21 (1) By January 1, 2023, each local government shall:

22 (a) Adopt a compost procurement ordinance to implement RCW
23 43.19A.120; and

24 (b) Develop a compost procurement plan to meet RCW 43.19A.120.

25 (2) Local governments shall give priority to purchasing compost
26 products from companies that produce compost products locally, are
27 certified by a nationally recognized organization, and produce
28 compost products that are derived from municipal solid waste compost
29 programs and meet quality standards comparable to standards adopted
30 by the department of transportation or adopted by rule by the
31 department of ecology.

32 (3) Local governments may enter into collective purchasing
33 agreements if doing so is more cost-effective or efficient.

34 (4) Nothing in this section requires a compost processor to:

35 (a) Enter into a purchasing agreement with a local government;

36 (b) Sell finished compost to meet this requirement; or

37 (c) Accept or process food waste or compostable products.

1 **Sec. 702.** RCW 39.30.040 and 2013 c 24 s 1 are each amended to
2 read as follows:

3 (1) Whenever a unit of local government is required to make
4 purchases from the lowest bidder or from the supplier offering the
5 lowest price for the items desired to be purchased, the unit of local
6 government may, at its option when awarding a purchase contract, take
7 into consideration tax revenue it would receive from purchasing the
8 supplies, materials, or equipment from a supplier located within its
9 boundaries. The unit of local government must award the purchase
10 contract to the lowest bidder after such tax revenue has been
11 considered. However, any local government may allow for preferential
12 purchase of products made from recycled materials or products that
13 may be recycled or reused. Any local government may allow for
14 preferential purchase of compost to meet the requirements of RCW
15 43.19A.120. Any unit of local government which considers tax revenue
16 it would receive from the imposition of taxes upon a supplier located
17 within its boundaries must also consider tax revenue it would receive
18 from taxes it imposes upon a supplier located outside its boundaries.

19 (2) A unit of local government may award a contract to a bidder
20 submitting the lowest bid before taxes are applied. The unit of local
21 government must provide notice of its intent to award a contract
22 based on this method prior to bids being submitted. For the purposes
23 of this subsection (2), "taxes" means only those taxes that are
24 included in "tax revenue" as defined in this section.

25 (3) The definitions in this subsection apply throughout this
26 section unless the context clearly requires otherwise.

27 (a) "Tax revenue" means sales taxes that units of local
28 government impose upon the sale of supplies, materials, or equipment
29 from the supplier to units of local government, and business and
30 occupation taxes that units of local government impose upon the
31 supplier that are measured by the gross receipts of the supplier from
32 the sale.

33 (b) "Unit of local government" means any county, city, town,
34 metropolitan municipal corporation, public transit benefit area,
35 county transportation authority, or other municipal or quasi-
36 municipal corporation authorized to impose sales and use taxes or
37 business and occupation taxes.

38 NEW SECTION. **Sec. 703.** A new section is added to chapter 43.19A
39 RCW to read as follows:

1 A contract by a governmental unit must require the use of compost
2 products to the maximum extent economically feasible to meet the
3 requirements established in RCW 43.19A.120.

4 **PART 8**

5 **Product Degradability Labeling**

6 **Sec. 801.** RCW 70A.455.010 and 2019 c 265 s 1 are each amended to
7 read as follows:

8 (1) The legislature finds and declares that it is the public
9 policy of the state that:

10 (a) Environmental marketing claims for plastic products, whether
11 implicit or implied, should adhere to uniform and recognized
12 standards for "compostability" and "biodegradability," since
13 misleading, confusing, and deceptive labeling can negatively impact
14 local composting programs and compost processors. Plastic products
15 marketed as being "compostable" should be readily and easily
16 identifiable as meeting these standards;

17 (b) Legitimate and responsible packaging and plastic product
18 manufacturers are already properly labeling their compostable
19 products, but many manufacturers are not. Not all compost facilities
20 and their associated processing technologies accept or are required
21 to accept compostable packaging as feedstocks. However, implementing
22 a standardized system and test methods may create the ability for
23 them to take these products in the future.

24 (2) Therefore, it is the intent of the legislature to authorize
25 the (~~state's attorney general and local governments~~) department of
26 ecology, cities, and counties to pursue false or misleading
27 environmental claims and "greenwashing" for plastic products claiming
28 to be "compostable" or "biodegradable" when in fact they are not.

29 **Sec. 802.** RCW 70A.455.020 and 2019 c 265 s 2 are each amended to
30 read as follows:

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

33 (1) "ASTM" means the American society for testing and materials.

34 (2) "Biodegradable mulch film" means film plastic used as a
35 technical tool in commercial farming applications that biodegrades in
36 soil after being used, and:

1 (a) The film product fulfills plant growth and regulated metals
2 requirements of ASTM D6400; and

3 (b) (i) Meets the requirements of Vincotte's "OK Biodegradable
4 Soil" certification scheme, as that certification existed as of
5 January 1, 2019;

6 (ii) At ambient temperatures and in soil, shows at least
7 (~~ninety~~) 90 percent biodegradation absolute or relative to
8 microcrystalline cellulose in less than two years' time, tested
9 according to ISO 17556 or ASTM 5988 standard test methods, as those
10 test methods existed as of January 1, 2019; or

11 (iii) Meets the requirements of EN 17033 "plastics-biodegradable
12 mulch films for use in agriculture and horticulture" as it existed on
13 January 1, 2019.

14 (3) "Federal trade commission guides" means the United States
15 federal trade commission's guides for the use of environmental
16 marketing claims (Part 260, commencing at section 260.1),
17 compostability claims, including section 260.8, and degradation
18 claims (subchapter B of chapter I of Title 16 of the Code of Federal
19 Regulations), as those guides existed as of January 1, 2019.

20 (4) "Film product" means a bag, sack, wrap, or other sheet film
21 product.

22 (5) "Food service product" (~~(means a product including, but not~~
23 ~~limited to, containers, plates, bowls, cups, lids, meat trays,~~
24 ~~straws, deli rounds, cocktail picks, splash sticks, condiment~~
25 ~~packaging, clam shells and other hinged or lidded containers,~~
26 ~~sandwich wrap, utensils, sachets, portion cups, and other food~~
27 ~~service products that are intended for one-time use and used for food~~
28 ~~or drink offered for sale or use)) has the same meaning as defined in
29 RCW 70A.245.010.~~

30 (6) "Manufacturer" means a person, firm, association,
31 partnership, or corporation that produces a product.

32 (7) "Person" means individual, firm, association, copartnership,
33 political subdivision, government agency, municipality, industry,
34 public or private corporation, or any other entity whatsoever.

35 (8) "Plastic food packaging and food service products" means food
36 packaging and food service products that is composed of:

37 (a) Plastic; or

38 (b) Fiber or paper with a plastic coating, window, component, or
39 additive.

1 (9) "Plastic product" means a product made of plastic, whether
2 alone or in combination with another material including, but not
3 limited to, paperboard. A plastic product includes, but is not
4 limited to, any of the following:

5 (a) A product or part of a product that is used, bought, or
6 leased for use by a person for any purpose;

7 (b) A package or a packaging component including, but not limited
8 to, packaging peanuts;

9 (c) A film product; or

10 (d) Plastic food packaging and food service products.

11 (10) "Standard specification" means either:

12 (a) ASTM D6400 - standard specification labeling of plastics
13 designed to be aerobically composted in municipal or industrial
14 facilities, as it existed as of January 1, 2019; or

15 (b) ASTM D6868 - standard specification for labeling of end items
16 that incorporate plastics and polymers as coatings or additives with
17 paper and other substrates designed to be aerobically composted in
18 municipal or industrial facilities, as it existed as of January 1,
19 2019.

20 (11) ~~((a))~~ "Supplier" means ~~((a person, firm, association,~~
21 ~~partnership, company, or corporation that sells, offers for sale,~~
22 ~~offers for promotional purposes, or takes title to a product.~~

23 ~~(b) "Supplier" does not include a person, firm, association,~~
24 ~~partnership, company, or corporation that sells products to end users~~
25 ~~as a retailer)) the following person responsible for compliance with~~
26 ~~this chapter for a product sold, offered for sale, or distributed in~~
27 ~~or into this state:~~

28 (a) If the product is sold under the manufacturer's own brand or
29 lacks identification of a brand, the producer is the person who
30 manufactures the product;

31 (b) If the product is manufactured by a person other than the
32 brand owner, the producer is the person who is the licensee of a
33 brand or trademark under which a product is sold, offered for sale,
34 or distributed in or into this state, whether or not the trademark is
35 registered in this state, unless the manufacturer or brand owner of
36 the product has agreed to accept responsibility under this chapter;
37 or

38 (c) If there is no person described in (a) and (b) of this
39 subsection over whom the state can constitutionally exercise

1 jurisdiction, the producer is the person who imports or distributes
2 the product in or into the state.

3 (12) "Utensil" means a product designed to be used by a consumer
4 to facilitate the consumption of food or beverages, including knives,
5 forks, spoons, cocktail picks, chopsticks, splash sticks, and
6 stirrers.

7 (13) "Department" means the department of ecology.

8 (14) (a) "Produce sticker" means a label or marking directly
9 affixed, or designed to be affixed, to an item intended for human
10 consumption, including the means of affixing the label or marking to
11 an item.

12 (b) "Produce sticker" does not include a container primarily
13 intended to market, transport, handle, or protect a food product.

14 **Sec. 803.** RCW 70A.455.040 and 2019 c 265 s 4 are each amended to
15 read as follows:

16 (1) (a) A product labeled as "compostable" that is sold, offered
17 for sale, or distributed for use in Washington by a supplier or
18 manufacturer must:

19 (i) Meet ASTM standard specification D6400;

20 (ii) Meet ASTM standard specification D6868; or

21 (iii) Be comprised of wood, which includes renewable wood, or
22 fiber-based substrate only;

23 (b) A product described in (a) (i) or (ii) of this subsection
24 must:

25 (i) Meet labeling requirements established under the United
26 States federal trade commission's guides; and

27 (ii) Feature labeling that:

28 (A) Meets industry standards for being distinguishable upon quick
29 inspection in both public sorting areas and in processing facilities;

30 (B) Uses a logo indicating the product has been certified by a
31 recognized third-party independent verification body as meeting the
32 ASTM standard specification; ~~((and))~~

33 (C) Displays the word "compostable," where possible, indicating
34 the product has been tested by a recognized third-party independent
35 body and meets the ASTM standard specification; and

36 (D) Uses green, beige, or brown labeling, color striping, or
37 other green, beige, or brown symbols, colors, tinting, marks, or
38 design patterns that help differentiate compostable items from
39 noncompostable materials.

1 (2) (~~(A compostable product described in subsection (1)(a)(i) or~~
2 ~~(ii) of this section must be considered compliant with the~~
3 ~~requirements of this section if it:~~

4 ~~(a) Has green or brown labeling;~~

5 ~~(b) Is labeled as compostable; and~~

6 ~~(c) Uses distinctive color schemes, green or brown color~~
7 ~~striping, or other adopted symbols, colors, marks, or design patterns~~
8 ~~that help differentiate compostable items from noncompostable~~
9 ~~materials)) The requirements of this section do not apply to produce~~
10 stickers.

11 **Sec. 804.** RCW 70A.455.050 and 2019 c 265 s 5 are each amended to
12 read as follows:

13 (1) A manufacturer or supplier of a film bag that meets ASTM
14 standard specification D6400 and is distributed or sold by retailers
15 must ensure that the film bag is readily and easily identifiable from
16 other film bags in a manner that is consistent with the federal trade
17 commission guides.

18 (2) For purposes of this section, "readily and easily
19 identifiable" products must meet the following requirements:

20 (a) Be labeled with a certification logo indicating the bag meets
21 the ASTM D6400 standard specification if the bag has been certified
22 as meeting that standard by a recognized third-party independent
23 verification body;

24 (b) Be labeled in accordance with one of the following:

25 (i) The bag is tinted or made of a uniform color of green, beige,
26 or brown and labeled with the word "compostable" on one side of the
27 bag and the label must be at least one inch in height; or

28 (ii) Be labeled with the word "compostable" on both sides of the
29 bag and the label must be one of the following:

30 (A) Green, beige, or brown color lettering at least one inch in
31 height; or

32 (B) Within a contrasting green, beige, or brown color band of at
33 least one inch in height on both sides of the bag with color
34 contrasting lettering of at least one-half inch in height; and

35 (c) Meet industry standards for being distinguishable upon quick
36 inspection in both public sorting areas and in processing facilities.

37 (3) If a bag is smaller than (~~fourteen~~) 14 inches by
38 (~~fourteen~~) 14 inches, the lettering and stripe required under

1 subsection (2)(b)(ii) of this section must be in proportion to the
2 size of the bag.

3 (4) A film bag that meets ASTM standard specification D6400 that
4 is sold or distributed in this state may not display a chasing arrow
5 resin identification code or recycling type of symbol in any form.

6 (5) A manufacturer or supplier is required to comply with this
7 section only to the extent that the labeling requirements do not
8 conflict with the federal trade commission guides.

9 **Sec. 805.** RCW 70A.455.060 and 2020 c 20 s 1446 are each amended
10 to read as follows:

11 (1)(a) A manufacturer or supplier of food service products or
12 film products that meet ASTM standard specification D6400 or ASTM
13 standard specification D6868 must ensure that the items are readily
14 and easily identifiable from other plastic food service products or
15 plastic film products in a manner that is consistent with the federal
16 trade commission guides.

17 (b) Film bags are exempt from the requirements of this section,
18 and are instead subject to the requirements of RCW 70A.455.050.

19 (2) For the purposes of this section, "readily and easily
20 identifiable" products must:

21 (a) Be labeled with a logo indicating the product has been
22 certified by a recognized third-party independent verification body
23 as meeting the ASTM standard specification;

24 (b) Be labeled with the word "compostable," where possible,
25 indicating the food packaging or film product has been tested by a
26 recognized third-party independent body and meets the ASTM standard
27 specification; ~~((and))~~

28 (c) Meet industry standards for being distinguishable upon quick
29 inspection in both public sorting areas and in processing facilities;
30 and

31 (d) Be colored or tinted green, beige, or brown.

32 ~~(3) ((A compostable product described in subsection (1) of this
33 section must be considered compliant with the requirements of this
34 section if it:~~

35 ~~(a) Has green or brown labeling;~~

36 ~~(b) Is labeled as compostable; and~~

37 ~~(c) Uses distinctive color schemes, green or brown color
38 striping, or other adopted symbols, colors, marks, or design patterns~~

1 ~~that help differentiate compostable items from noncompostable~~
2 ~~materials.~~

3 ~~(4))~~ It is encouraged that each product described in subsection
4 (1) of this section(~~(~~

5 ~~(a) Display))~~ display labeling language via printing, embossing,
6 or compostable adhesive stickers using, when possible, either the
7 colors green, beige, or brown that contrast with background product
8 color for easy identification(~~(~~

9 ~~(b) Be tinted green or brown))~~.

10 ~~((5))~~ (4) Graphic elements are encouraged to increase
11 legibility of the word "compostable" and overall product distinction
12 that may include text boxes, stripes, bands, or a green, beige, or
13 brown tint of the product.

14 ~~((6))~~ (5) A manufacturer or supplier is required to comply with
15 this section only to the extent that the labeling requirements do not
16 conflict with the federal trade commission guides.

17 **Sec. 806.** RCW 70A.455.070 and 2020 c 20 s 1447 are each amended
18 to read as follows:

19 A manufacturer or supplier of film products or food service
20 products sold, offered for sale, or distributed for use in Washington
21 that does not meet the applicable ASTM standard specifications
22 provided in RCW 70A.455.050 and 70A.455.060 is:

23 (1) Prohibited from using tinting, color schemes, labeling,
24 ~~(and))~~ or terms that are required of products that meet the
25 applicable ASTM standard specifications under RCW 70A.455.050 and
26 70A.455.060;

27 ~~(2) ((Discouraged from using coloration, labeling, images, and~~
28 ~~terms that))~~ Prohibited from using brown, beige, or green coloration
29 labeling, brown, beige, or green tinting, images, or terms, if such
30 coloration, labeling, tinting, images, or terms may reasonably be
31 anticipated, in the judgment of the department, to confuse consumers
32 into believing that noncompostable bags and food service packaging
33 are compostable; and

34 (3) Encouraged to use coloration, tinting, labeling, images, and
35 terms to help consumers identify noncompostable bags, film products,
36 and food service packaging as either: (a) Suitable for recycling; or
37 (b) necessary to dispose as waste.

1 **Sec. 807.** RCW 70A.455.080 and 2019 c 265 s 8 are each amended to
2 read as follows:

3 (1) Upon the request by a person, including the department, a
4 manufacturer or supplier shall submit to that person or the
5 department, within (~~ninety~~) 90 days of the request, nonconfidential
6 business information and documentation demonstrating compliance with
7 this chapter, in a format that is easy to understand and
8 scientifically accurate.

9 (2) Upon request by a commercial compost processing facility,
10 manufacturers of compostable products are encouraged to provide the
11 facility with information regarding the technical aspects of a
12 commercial composting environment, such as heat or moisture, in which
13 the manufacturer's product has been field tested and found to
14 degrade.

15 **Sec. 808.** RCW 70A.455.090 and 2020 c 20 s 1448 are each amended
16 to read as follows:

17 (1) (a) The (~~state, acting through the attorney general,~~)
18 department and cities and counties have concurrent authority to
19 enforce this chapter and to collect civil penalties for a violation
20 of this chapter, subject to the conditions in this section and RCW
21 70A.455.100. An enforcing government entity may impose a civil
22 penalty in the amount of up to (~~two thousand dollars~~) \$2,000 for
23 the first violation of this chapter, up to (~~five thousand dollars~~)
24 \$5,000 for the second violation of this chapter, and up to (~~ten~~
25 ~~thousand dollars~~) \$10,000 for the third and any subsequent violation
26 of this chapter. If a manufacturer or supplier has paid a prior
27 penalty for the same violation to a different government entity with
28 enforcement authority under this subsection, the penalty imposed by a
29 government entity is reduced by the amount of the payment.

30 (b) The enforcement of this chapter must be based primarily on
31 complaints filed with the department and cities and counties. The
32 department must establish a forum for the filing of complaints.
33 Cities, counties, or any person may file complaints with the
34 department using the forum, and cities and counties may review
35 complaints filed with the department via the forum. The forum
36 established by the department may include a complaint form on the
37 department's website, a telephone hotline, or a public outreach
38 strategy relying upon electronic social media to receive complaints
39 that allege violations. The department, in collaboration with the

1 cities and counties, must provide education and outreach activities
2 to inform retail establishments, consumers, and suppliers about the
3 requirements of this chapter.

4 ~~(2) ((Any civil penalties collected pursuant to this section must~~
5 ~~be paid to the office of the city attorney, city prosecutor, district~~
6 ~~attorney, or attorney general, whichever office brought the action.~~
7 ~~Penalties collected by the attorney general on behalf of the state~~
8 ~~must be deposited in the compostable products revolving account~~
9 ~~created in RCW 70A.455.110)) Penalties issued by the department are~~
10 appealable to the pollution control hearings board established in
11 chapter 43.21B RCW.

12 (3) The remedies provided by this section are not exclusive and
13 are in addition to the remedies that may be available pursuant to
14 chapter 19.86 RCW or other consumer protection laws, if applicable.

15 (4) In addition to penalties recovered under this section, the
16 enforcing ~~((government entity))~~ city or county may recover reasonable
17 enforcement costs and attorneys' fees from the liable manufacturer or
18 supplier.

19 **Sec. 809.** RCW 70A.455.100 and 2020 c 20 s 1449 are each amended
20 to read as follows:

21 (1) Manufacturers and suppliers who violate the requirements of
22 this chapter are subject to civil penalties described in RCW
23 70A.455.090. A specific violation is deemed to have occurred upon the
24 sale of noncompliant product by stock-keeping unit number or unique
25 item number. The repeated sale of the same noncompliant product by
26 stock-keeping unit number or unique item number is considered a
27 single violation. ((A city, county, or the state))

28 (2)(a) A city or county enforcing a requirement of this chapter
29 must send a written notice and a copy of the requirements to a
30 noncompliant manufacturer or supplier of an alleged violation, who
31 will have ((ninety)) 90 days to become compliant. ((A city, county,
32 or the state may assess a first penalty if the manufacturer or
33 supplier has not met the requirements ninety days following the date
34 the notification was sent. A city, county, or the state))

35 (b) A city or county enforcing a requirement of this chapter may
36 assess a first penalty if the manufacturer or supplier has not met
37 the requirements 90 days following the date the notification was
38 sent. A city or county may impose second, third, and subsequent
39 penalties on a manufacturer or supplier that remains noncompliant

1 with the requirements of this chapter for every month of
2 noncompliance.

3 (3) The department may only impose penalties under this chapter
4 consistent with the standards established in RCW 43.21B.300.

5 NEW SECTION. **Sec. 810.** A new section is added to chapter
6 70A.455 RCW to read as follows:

7 (1) The department may adopt rules as necessary for the purpose
8 of implementing, administering, and enforcing this chapter.

9 (2) The department must begin enforcing the requirements of this
10 chapter by January 1, 2024.

11 NEW SECTION. **Sec. 811.** A new section is added to chapter
12 70A.455 RCW to read as follows:

13 (1)(a) Beginning January 1, 2024, a person may not sell or
14 distribute in or into Washington plastic produce stickers, or
15 products with plastic produce stickers, that do not meet ASTM
16 standard D6400 or ASTM standard D6868, as those standards existed as
17 of January 1, 2022.

18 (b) The requirements of (a) of this subsection do not apply to
19 produce labels that are comprised of wood or fiber-based substrate
20 only.

21 (2) Upon request, the department must provide technical
22 assistance and guidance to manufacturers, importers, or distributors
23 of prohibited produce stickers that sell, offer for sale, or
24 otherwise supply such products in or into Washington.

25 **Sec. 812.** RCW 43.21B.110 and 2021 c 316 s 41 and 2021 c 313 s 16
26 are each reenacted and amended to read as follows:

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

34 (a) Civil penalties imposed pursuant to RCW 18.104.155,
35 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070,
36 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080,

1 70A.65.200, 70A.455.090, 76.09.170, 77.55.440, 78.44.250, 88.46.090,
2 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

3 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
4 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070,
5 70A.245.020, 70A.65.200, 86.16.020, 88.46.070, 90.14.130, 90.46.250,
6 90.48.120, and 90.56.330.

7 (c) Except as provided in RCW 90.03.210(2), the issuance,
8 modification, or termination of any permit, certificate, or license
9 by the department or any air authority in the exercise of its
10 jurisdiction, including the issuance or termination of a waste
11 disposal permit, the denial of an application for a waste disposal
12 permit, the modification of the conditions or the terms of a waste
13 disposal permit, or a decision to approve or deny an application for
14 a solid waste permit exemption under RCW 70A.205.260.

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

17 (e) Decisions of local health departments regarding the issuance
18 and enforcement of permits to use or dispose of biosolids under RCW
19 70A.226.090.

20 (f) Decisions of the department regarding waste-derived
21 fertilizer or micronutrient fertilizer under RCW 15.54.820, and
22 decisions of the department regarding waste-derived soil amendments
23 under RCW 70A.205.145.

24 (g) Decisions of local conservation districts related to the
25 denial of approval or denial of certification of a dairy nutrient
26 management plan; conditions contained in a plan; application of any
27 dairy nutrient management practices, standards, methods, and
28 technologies to a particular dairy farm; and failure to adhere to the
29 plan review and approval timelines in RCW 90.64.026.

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

33 (i) Decisions of the department of natural resources, the
34 department of fish and wildlife, and the department that are
35 reviewable under chapter 76.09 RCW, and the department of natural
36 resources' appeals of county, city, or town objections under RCW
37 76.09.050(7).

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

1 (k) Decisions of the department of fish and wildlife to issue,
2 deny, condition, or modify a hydraulic project approval permit under
3 chapter 77.55 RCW, to issue a stop work order, to issue a notice to
4 comply, to issue a civil penalty, or to issue a notice of intent to
5 disapprove applications.

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

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

12 (n) Decisions of the department of ecology that are appealable
13 under RCW 70A.245.020 to set recycled minimum postconsumer content
14 for covered products or to temporarily exclude types of covered
15 products in plastic containers from minimum postconsumer recycled
16 content requirements.

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

18 (2) The following hearings shall not be conducted by the hearings
19 board:

20 (a) Hearings required by law to be conducted by the shorelines
21 hearings board pursuant to chapter 90.58 RCW.

22 (b) Hearings conducted by the department pursuant to RCW
23 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,
24 70A.15.3110, and 90.44.180.

25 (c) Appeals of decisions by the department under RCW 90.03.110
26 and 90.44.220.

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

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

32 **Sec. 813.** RCW 43.21B.300 and 2021 c 316 s 42 and 2021 c 313 s 17
33 are each reenacted and amended to read as follows:

34 (1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160,
35 70A.205.280, 70A.300.090, 70A.20.050, 70A.245.040, 70A.245.050,
36 70A.245.070, 70A.245.080, 70A.65.200, 70A.455.090, 88.46.090,
37 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102
38 and chapter 70A.355 RCW shall be imposed by a notice in writing,
39 either by certified mail with return receipt requested or by personal

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

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

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

23 (a) Thirty days after receipt of the notice imposing the penalty;

24 (b) Thirty days after receipt of the notice of disposition by a
25 local air authority on application for relief from penalty, if such
26 an application is made; or

27 (c) Thirty days after receipt of the notice of decision of the
28 hearings board if the penalty is appealed.

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

1 (5) All penalties recovered shall be paid into the state treasury
2 and credited to the general fund except those penalties imposed
3 pursuant to RCW 18.104.155, which shall be credited to the
4 reclamation account as provided in RCW 18.104.155(7), RCW
5 70A.15.3160, the disposition of which shall be governed by that
6 provision, RCW 70A.245.040 and 70A.245.050, which shall be credited
7 to the recycling enhancement account created in RCW 70A.245.100, RCW
8 70A.300.090, which shall be credited to the model toxics control
9 operating account created in RCW 70A.305.180, RCW 70A.65.200, which
10 shall be credited to the climate investment account created in RCW
11 70A.65.250, RCW 90.56.330, which shall be credited to the coastal
12 protection fund created by RCW 90.48.390, and RCW 70A.355.070, which
13 shall be credited to the underground storage tank account created by
14 RCW 70A.355.090.

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16

PART 9
Miscellaneous

17 NEW SECTION. **Sec. 901.** Sections 401, 402, and 403 of this act
18 constitute a new chapter in Title 70A RCW.

19 NEW SECTION. **Sec. 902.** The following acts or parts of acts are
20 each repealed:

21 (1) RCW 70A.455.110 (Compostable products revolving account) and
22 2020 c 20 s 1450 & 2019 c 265 s 11; and

23 (2) RCW 70A.455.900 (Effective date—2019 c 265) and 2019 c 265 s
24 13.

25 NEW SECTION. **Sec. 903.** If any provision of this act or its
26 application to any person or circumstance is held invalid, the
27 remainder of the act or the application of the provision to other
28 persons or circumstances is not affected.

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