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SECOND SUBSTITUTE SENATE BILL 5591

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State of Washington                      52nd Legislature                      1991 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Metcalf, Amondson, A. Smith and Roach).

Read first time March 11, 1991.

1            AN ACT Relating to the reduction of solid waste through recycling;  
2 amending RCW 70.95C.120 and 70.95.040; adding new sections to chapter  
3 43.131 RCW; adding new sections to chapter 70.95C RCW; adding a new  
4 section to chapter 82.04 RCW; adding new chapters to Title 70 RCW;  
5 creating new sections; repealing RCW 43.160.077; and prescribing  
6 penalties.

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

8    PART I

9    CENTER FOR RECYCLING MARKETS DEVELOPMENT

10            NEW SECTION.    **Sec. 101.**        (1) The legislature finds that:

11            (a) Recycling conserves energy and landfill space, provides jobs  
12 and valuable feedstock materials to industry, and promotes health and  
13 environmental protection;

1 (b) Seventy-eight percent of the citizens of the state actively  
2 participate in recycling programs and Washington currently has the  
3 highest recycling rate in the nation;

4 (c) The current supply of many recycled commodities far exceeds the  
5 demand for such commodities;

6 (d) Many local governments and private entities cumulatively  
7 affect, and are affected by, the market for recycled commodities but  
8 have limited jurisdiction and cannot adequately address the problems of  
9 market development that are complex, wide-ranging, and regional in  
10 nature; and

11 (e) The private sector has the greatest capacity for creating and  
12 expanding markets for recycled commodities, and the development of  
13 private markets for recycled commodities is in the public interest.

14 (2) It is therefore the policy of the state to create a single  
15 entity to be known as the center for recycling markets development to  
16 develop new, and expand existing, markets for recycled commodities.

17 NEW SECTION. **Sec. 102.** There is created the center for  
18 recycling markets development within the department of trade and  
19 economic development. As used in this chapter, "center" means the  
20 center for recycling markets development. The director of the  
21 department may choose to operate the center as a unit within the  
22 department's business assistance center.

23 NEW SECTION. **Sec. 103.** The purpose of the center is to provide  
24 or facilitate basic and applied research and development, marketing  
25 assistance, public education, and policy analysis in furthering the  
26 development of markets for recycled products. As used in this chapter,  
27 market development consists of public and private activities that are  
28 used to overcome impediments preventing full use of secondary materials

1 diverted from the waste stream, and that encourage and expand use of  
2 those materials and subsequent products. In fulfilling this mission  
3 the center shall primarily direct its services to recycling businesses,  
4 which as used in this chapter mean those businesses engaged in  
5 transforming or remanufacturing waste materials into usable or  
6 marketable materials or products for use other than landfill disposal  
7 or incineration.

8 NEW SECTION. **Sec. 104.** The center shall:

9 (1) Provide targeted business assistance to recycling businesses,  
10 including:

11 (a) Development of business plans;

12 (b) Market research and planning information;

13 (c) Access to financing programs;

14 (d) Referral and information on market conditions;

15 (e) Information on new technology and product development;

16 (2) Negotiate voluntary agreements with manufacturers to increase  
17 the use of recycled materials in product development;

18 (3) Support research and development to stimulate new technologies  
19 and products using recycled materials;

20 (4) Undertake an integrated, comprehensive education effort  
21 directed to recycling businesses to promote processing, manufacturing,  
22 and purchase of recycled products, including:

23 (a) Providing information to recycling businesses on the  
24 availability and benefits of using recycled materials;

25 (b) Providing information and referral services on recycled  
26 material markets;

27 (c) Providing information on new research and technologies that may  
28 be used by local businesses and governments; and

1 (d) Participating in projects to demonstrate new market uses or  
2 applications for recycled products;

3 (5) Assisting the departments of ecology and general administration  
4 in the development of consistent definitions and standards on recycled  
5 content, product performance, and availability;

6 (6) Undertaking studies on the unmet capital needs of reprocessing  
7 and manufacturing firms using recycled materials;

8 (7) Undertaking and participating in marketing promotions for the  
9 purposes of achieving expanded market penetration for recycled content  
10 products; and

11 (8) Coordinating with the department of ecology to ensure that the  
12 education programs of both are mutually reinforcing, with the center  
13 acting as the lead entity with respect to recycling businesses, and the  
14 department as the lead entity with respect to the general public and  
15 retailers.

16 NEW SECTION. **Sec. 105.** The center shall place a high priority  
17 upon commodities comprising a large proportion of the state's waste  
18 stream and for which further development of markets for recycled  
19 products are needed. Such commodities include but are not limited to  
20 mixed-waste paper, yard waste and other organic waste, plastics, and  
21 glass.

22 NEW SECTION. **Sec. 106.** In order to carry out its  
23 responsibilities under this chapter, the center may:

24 (1) Receive such gifts, grants, funds, fees, and endowments, in  
25 trust or otherwise, for the use and benefit of the purposes of the  
26 center. The center may expend the same or any income therefrom  
27 according to the terms of the gifts, grants, or endowments;

1 (2) Initiate, conduct, or contract for studies and searches  
2 relating to market development for recyclable materials, including but  
3 not limited to applied research, technology transfer, and pilot  
4 demonstration projects;

5 (3) Obtain and disseminate information relating to market  
6 development for recyclable materials from other state and local  
7 agencies;

8 (4) Enter into, amend, and terminate contracts with individuals,  
9 corporations, trade associations, and research institutions for the  
10 purposes of this chapter;

11 (5) Provide grants to local governments or other public  
12 institutions to further the development of recycling markets;

13 (6) Provide business and marketing assistance to public and private  
14 sector entities within the state; and

15 (7) Evaluate, analyze, and make recommendations on state policies  
16 that may affect markets for recyclable materials.

17 NEW SECTION. **Sec. 107.** The center shall be administered by a  
18 manager appointed by the director of the department of trade and  
19 economic development.

20 NEW SECTION. **Sec. 108.** The center shall solicit financial  
21 contributions and support from manufacturing industries and other  
22 private sector sources, foundations, and grants from governmental  
23 sources to assist in conducting its activities. It may also use  
24 separately appropriated funds of the department of trade and economic  
25 development for the center's activities.

26 NEW SECTION. **Sec. 109.** The center's activities shall be  
27 conducted with the assistance of an advisory committee having members

1 representing the private sector, recycling businesses and associations,  
2 local government, and other state agencies. The committee shall  
3 consist of a majority of private sector representatives. The center  
4 shall endeavor to include private sector representatives on the  
5 committee having an involvement with the commodities chosen by the  
6 center for high priority activities.

7 NEW SECTION. **Sec. 110.** Sections 101 through 109 of this act  
8 shall constitute a new chapter in Title 70 RCW.

9 NEW SECTION. **Sec. 111.** A new section is added to chapter 43.131  
10 RCW to read as follows:

11 The center for recycling markets and its powers and duties shall be  
12 terminated June 30, 1996.

13 NEW SECTION. **Sec. 112.** A new section is added to chapter 43.131  
14 RCW to read as follows:

15 The following acts or parts of acts, as now existing or hereafter  
16 amended, are each repealed, effective June 30, 1997:

17 (1) RCW 70.---.--- and section 101, chapter ..., Laws of 1991  
18 (section 101 of this act);

19 (2) RCW 70.---.--- and section 102, chapter ..., Laws of 1991  
20 (section 102 of this act);

21 (3) RCW 70.---.--- and section 103, chapter ..., Laws of 1991  
22 (section 103 of this act);

23 (4) RCW 70.---.--- and section 104, chapter ..., Laws of 1991  
24 (section 104 of this act);

25 (5) RCW 70.---.--- and section 105, chapter ..., Laws of 1991  
26 (section 105 of this act);

1 (6) RCW 70.---.--- and section 106, chapter ..., Laws of 1991  
2 (section 106 of this act);  
3 (7) RCW 70.---.--- and section 107, chapter ..., Laws of 1991  
4 (section 107 of this act);  
5 (8) RCW 70.---.--- and section 108, chapter ..., Laws of 1991  
6 (section 108 of this act); and  
7 (9) RCW 70.---.--- and section 109, chapter ..., Laws of 1991  
8 (section 109 of this act).

9 PART II

10 HEAVY METALS IN PACKAGING

11 NEW SECTION. **Sec. 201.** Unless the context clearly requires  
12 otherwise, the definitions in this section apply throughout this  
13 chapter.

14 (1) "Package" means a container providing a means of marketing,  
15 protecting, or handling a product and shall include a unit package, an  
16 intermediate package, and a shipping container as defined in ASTM D996.  
17 "Package" also means and includes unsealed receptacles such as carrying  
18 cases, crates, cups, pails, rigid foil and other trays, wrappers and  
19 wrapping films, bags, and tubs.

20 (2) "Manufacturer" means a person, firm, or corporation who applies  
21 a package to a product for distribution or sale.

22 (3) "Packaging component" means an individual assembled part of a  
23 package such as, but not limited to, any interior or exterior blocking,  
24 bracing, cushioning, weatherproofing, exterior strapping, coatings,  
25 closures, inks, and labels.

26 NEW SECTION. **Sec. 202.** (1) As soon as feasible but not later  
27 than two years after the effective date of this section, no package or

1 packaging component may be offered for sale or for promotional purposes  
2 by its manufacturer or distributor in the state of Washington, that  
3 includes, in the package itself or in any packaging component, inks,  
4 dyes, pigments, adhesives, stabilizers, or any other additives, any  
5 lead, cadmium, mercury, or hexavalent chromium that has been  
6 intentionally introduced as an element during manufacturing or  
7 distribution as opposed to the incidental presence of any of these  
8 elements.

9 (2) As soon as feasible but not later than two years after the  
10 effective date of this section, no product may be offered for sale or  
11 for promotional purposes by its manufacturer or distributor in the  
12 state of Washington in a package that includes, in the package itself  
13 or in any of its packaging components, inks, dyes, pigments, adhesives,  
14 stabilizers, or any other additives, any lead, cadmium, mercury, or  
15 hexavalent chromium that has been intentionally introduced as an  
16 element during manufacturing or distribution as opposed to the  
17 incidental presence of any of these elements.

18 (3) The sum of the concentration levels of lead, cadmium, mercury,  
19 and hexavalent chromium present in any package or packaging component  
20 shall not exceed the following:

21 (a) 600 parts per million by weight effective two years after the  
22 effective date of this section;

23 (b) 250 parts per million by weight effective three years after the  
24 effective date of this section; and

25 (c) 100 parts per million by weight effective four years after the  
26 effective date of this section.

27 NEW SECTION. **Sec. 203.** All packages and packaging components  
28 shall be subject to this chapter except the following:



1 (1) Those packages or package components with a code indicating  
2 date of manufacture that were manufactured prior to the effective date  
3 of this section;

4 (2) Those packages or packaging components that have been purchased  
5 by, delivered to, or are possessed by a retailer on or before twenty-  
6 four months following the effective date of this section to permit  
7 opportunity to clear existing inventory of the proscribed packaging  
8 material;

9 (3) Those packages or packaging components to which lead, cadmium,  
10 mercury, or hexavalent chromium have been added in the manufacturing,  
11 forming, printing, or distribution process in order to comply with  
12 health or safety requirements of federal law or for which there is no  
13 feasible alternative; or

14 (4) Packages and packaging components that would not exceed the  
15 maximum contaminant levels set forth in section 202(3) of this act but  
16 for the addition of postconsumer materials; and provided that the  
17 exemption for this subsection shall expire six years after the  
18 effective date of this section.

19 NEW SECTION. **Sec. 204.** As soon as feasible but not later than  
20 two years after the effective date of this section, a certificate of  
21 compliance stating that a package or packaging component is in  
22 compliance with the requirements of this chapter shall be developed by  
23 its manufacturer, provided, however, where compliance is achieved under  
24 the exemption or exemptions provided in section 203(3) or (4) of this  
25 act, the certificate shall state the specific basis upon which the  
26 exemption is claimed. The certificate of compliance shall be signed by  
27 an authorized official of the manufacturing company. The certificate  
28 of compliance shall be kept on file by the manufacturer for as long as  
29 the package or packaging component is in use, and for three years from

1 the date of the last sale or distribution by the manufacturer.  
2 Certificates of compliance, or copies thereof, shall be furnished to  
3 the department of ecology upon request within sixty days. If  
4 manufacturers are required under any other state statute to provide a  
5 certificate of compliance, one certificate may be developed containing  
6 all required information.

7 If the manufacturer or supplier of the package or packaging  
8 component reformulates or creates a new package or packaging component,  
9 the manufacturer shall develop an amended or new certificate of  
10 compliance for the reformulated or new package or packaging component.

11 NEW SECTION. **Sec. 205.** Requests from a member of the public for  
12 any certificate of compliance shall be:

13 (1) Made in writing to the department of ecology;

14 (2) Made specific as to package or packaging component information  
15 requested; and

16 (3) Responded to by the department of ecology within ninety days.

17 NEW SECTION. **Sec. 206.** The department of ecology may suspend  
18 the sale of any package for which a manufacturer has failed to respond  
19 to a request by the department for a certificate of compliance within  
20 the allotted period of time pursuant to section 204 of this act.

21 NEW SECTION. **Sec. 207.** The center and the department of ecology  
22 shall conduct a public education program aimed toward achieving  
23 voluntary changes in consumer, retailer, distributor, and manufacturer  
24 behavior regarding packaging waste reduction and recycling. The  
25 program may include a variety of media and other strategies, such as  
26 in-store displays and signing, manufacturer logos, government awards  
27 programs, and participation of trade associations. The center shall be

1 the lead entity to direct its educational program toward manufacturers,  
2 distributors, and recycling businesses, and the department shall be the  
3 lead entity with respect to consumers and retailers.

4 NEW SECTION. **Sec. 208.** The state solid waste advisory committee  
5 shall review the effectiveness of this chapter and report to the  
6 legislature by December 1, 1993. The report shall contain  
7 recommendations to add other toxic substances contained in packaging to  
8 the list set forth in this chapter, including but not limited to  
9 mutagens, carcinogens, and teratogens, in order to further reduce the  
10 toxicity of packaging waste, and shall contain a recommendation  
11 regarding imposition of penalty for violation of section 202 of this  
12 act, and shall contain a recommendation whether to continue the  
13 recycling exemption as it is provided for in section 203 of this act.

14 **Sec. 209.** RCW 70.95C.120 and 1989 c 431 s 54 are each amended to  
15 read as follows:

16 The office of waste reduction shall develop, in consultation with  
17 the superintendent of public instruction, an awards program to achieve  
18 waste reduction and recycling in the public schools, grades  
19 kindergarten through high school. The office shall develop guidelines  
20 for program development and implementation. Each public school shall  
21 implement a waste reduction and recycling program conforming to  
22 guidelines developed by the office.

23 For the purpose of granting awards, the office may group schools  
24 into not more than three classes, based upon student population,  
25 distance to markets for recyclable materials, and other criteria, as  
26 deemed appropriate by the office. Except as otherwise provided, five  
27 or more awards shall be granted to each of the three classes. Each  
28 award shall be a sum of not less than two thousand dollars nor more

1 than five thousand dollars. Awards shall be granted each year to the  
2 schools that achieve the greatest levels of waste reduction and  
3 recycling. ~~((Each))~~ A single award ~~((shall be of a sum))~~ of not less  
4 than ten thousand dollars shall be presented to the school having the  
5 best recycling program as determined by the office. ~~((The office shall~~  
6 ~~also develop recommendations for an awards program for waste reduction~~  
7 ~~in the public schools. The office shall submit these recommendations~~  
8 ~~to the appropriate standing committees in the house of representatives~~  
9 ~~and senate on or before November 30, 1989.))~~

10 The superintendent of public instruction shall distribute  
11 guidelines and other materials developed by the office to implement  
12 programs to reduce and recycle waste generated in administrative  
13 offices, classrooms, laboratories, cafeterias, and maintenance  
14 operations.

15 NEW SECTION. Sec. 210. Sections 201 through 208 of this act  
16 shall constitute a new chapter in Title 70 RCW.

17 PART III

18 PLASTICS

19 NEW SECTION. Sec. 301. Unless the context clearly requires  
20 otherwise, the definitions in this section apply throughout sections  
21 302 and 303 of this act.

22 (1) "Container," unless otherwise specified, refers to "rigid  
23 plastic container" or "plastic bottle" as those terms are defined in  
24 this section.

25 (2) "Distributors" means those persons engaged in the distribution  
26 of packaged goods for sale in the state of Washington, including  
27 manufacturers, wholesalers, and retailers.

1 (3) "Label" means a molded, imprinted, or raised symbol on or near  
2 the bottom of a plastic container or bottle.

3 (4) "Person" means an individual, sole proprietor, partnership,  
4 association, or other legal entity.

5 (5) "Plastic" means a material made of polymeric organic compounds  
6 and additives that can be shaped by flow.

7 (6) "Plastic bottle" means a plastic container intended for single  
8 use that has a neck that is smaller than the body of the container,  
9 accepts a screw-type, snap cap, or other closure and has a capacity of  
10 sixteen fluid ounces or more, but less than five gallons.

11 (7) "Rigid plastic container" means a formed or molded container,  
12 other than a bottle, intended for single use, composed predominantly of  
13 plastic resin, and having a relatively inflexible finite shape or form  
14 with a capacity of eight ounces or more but less than five gallons.

15 NEW SECTION. **Sec. 302.** (1) The provisions of this section and  
16 any rules adopted under it shall be interpreted to conform with nation-  
17 wide plastics industry standards.

18 (2) On or after January 1, 1992, no person may distribute, sell, or  
19 offer for sale in this state a plastic bottle or rigid plastic  
20 container unless the container is labeled with a code identifying the  
21 appropriate resin type used to produce the structure of the container.  
22 The code shall consist of a number placed within three triangulated  
23 arrows and letters placed below the triangle of arrows. The  
24 triangulated arrows shall be equilateral, formed by three arrows with  
25 the apex of each point of the triangle at the midpoint of each arrow,  
26 rounded with a short radius. The pointer (arrowhead) of each arrow  
27 shall be at the midpoint of each side of the triangle with a short gap  
28 separating the pointer from the base of the adjacent arrow. The  
29 triangle, formed by the three arrows curved at their midpoints shall

1 depict a clockwise path around the code number. The numbers and  
2 letters used shall be as follows:

3 (a) 1. = PETE (polyethylene terephthalate)

4 (b) 2. = HDPE (high density polyethylene)

5 (c) 3. = V (vinyl)

6 (d) 4. = LDPE (low density polyethylene)

7 (e) 5. = PP (polypropylene)

8 (f) 6. = PS (polystyrene)

9 (g) 7. = OTHER

10 NEW SECTION. **Sec. 303.** (1) After being notified that a plastic  
11 container does not comply with section 302 of this act, a person who  
12 violates section 302 of this act is subject to a civil penalty of fifty  
13 dollars for each violation up to a maximum of five hundred dollars and  
14 may be enjoined from continuing violations. Each distribution  
15 constitutes a separate offense.

16 (2) Distributors shall have until January 1, 1994, to clear current  
17 inventory, delivered or received and held in their possession as of the  
18 effective date of this section. Distributors shall not be subject to  
19 subsection (1) of this section for sale of such inventory.

20 (3) Subsection (1) of this section shall not apply to those  
21 containers that have been purchased by, delivered to, or are possessed  
22 by a retailer on or before January 1, 1994, to permit opportunity to  
23 clear existing inventory.

24 NEW SECTION. **Sec. 304.** Sections 301 through 303 of this act are  
25 each added to chapter 70.95C RCW.

PART IV

MISCELLANEOUS

NEW SECTION. **Sec. 401.** A new section is added to chapter 82.04

RCW to read as follows:

(1) A refundable deposit rebated to a purchaser shall be deducted from the selling price and excluded from gross income for tax purposes. For the purposes of this chapter, a "refundable deposit" means an amount that is collected by the seller at the time of sale with the understanding that the amount shall be deemed to be security to ensure the return of reusable or recyclable materials or packaging and that will be rebated or credited to the purchaser when a substantially similar reusable or recyclable material or packaging is returned to the seller.

(2) When a seller has rebated or credited a refundable deposit to a purchaser upon return of substantially similar reusable or recyclable materials or packaging pursuant to this section, the seller shall deduct an amount equal to the deposit actually rebated or credited from gross proceeds of sales in computing tax liability on the reusable or recyclable materials or packaging.

**Sec. 402.** RCW 70.95.040 and 1987 c 115 s 1 are each amended to read as follows:

(1) There is created a solid waste advisory committee to provide consultation to the department of ecology concerning matters covered by this chapter. The committee shall advise on the development of programs and regulations for solid and dangerous waste handling, resource recovery, and recycling, and shall supply recommendations concerning methods by which existing solid and dangerous waste

1 handling, resource recovery, and recycling practices and the laws  
2 authorizing them may be supplemented and improved.

3       (2) (~~The committee shall consist of eleven members, including the~~  
4 ~~assistant director for the division of solid waste management within~~  
5 ~~the department. The director shall appoint ten members with due regard~~  
6 ~~to the interests of the public, local government, agriculture,~~  
7 ~~industry, public health, and the refuse removal and resource recovery~~  
8 ~~industries. The director shall include among his ten appointees~~  
9 ~~representatives of activities from which dangerous wastes arise and the~~  
10 ~~Washington state patrol's hazardous materials technical advisory~~  
11 ~~committee.)) The director shall appoint the committee which shall  
12 consist of at least eleven members, including the department's  
13 assistant director for waste management programs or the appropriate  
14 designee. The director shall appoint members with due regard to all  
15 interests in solid waste management and resource recovery. The term of  
16 appointment shall be determined by the director. The committee shall  
17 elect its own chairman and meet at least four times a year, in  
18 accordance with such rules of procedure as it shall establish. Members  
19 shall receive no compensation for their services but shall be  
20 reimbursed their travel expenses while engaged in business of the  
21 committee in accordance with RCW 43.03.050 and 43.03.060 as now  
22 existing or hereafter amended.~~

23       (3) The committee shall each year recommend to the governor a  
24 recipient for a "governor's award of excellence" which the governor  
25 shall award for outstanding achievement by an industry, company, or  
26 individual in the area of hazardous waste or solid waste management.

27       NEW SECTION. Sec. 403. RCW 43.160.077 and 1989 c 431 s 63 are  
28 each repealed.



1        NEW SECTION.    **Sec. 404.**     Part headings as used in this act  
2 constitute no part of the law.

3        NEW SECTION.    **Sec. 405.**     If specific funding for the purposes of  
4 sections 101 through 112 of this act, referencing sections 101 through  
5 112 of this act by bill and section number, is not provided by June 30,  
6 1991, in the omnibus appropriations act, sections 101 through 112 of  
7 this act shall be null and void.