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**SECOND SUBSTITUTE SENATE BILL 5397**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Rolfes, Carlyle, Darneille, Saldaña, Hasegawa, Hunt, and Kuderer)

AN ACT Relating to the responsible management of plastic packaging; and adding a new chapter to Title 70 RCW.

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

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

(a) Convenient and environmentally sound product stewardship programs that include collecting, transporting, and recycling of unwanted products help protect Washington's environment and the health of state residents;

(b) Product producers should finance and provide these programs. The programs are intended to encourage producers to design products that have a lower carbon footprint, are less toxic and energy and material intensive, and are more easily repaired, reusable, or recyclable than other products;

(c) Unwanted products should be managed where priority is placed on prevention, waste reduction, and reuse over energy recovery and landfill disposal; and

(d) Producers of plastic packaging must take responsibility for the design and management of their packaging in a manner that ensures minimal environmental impact. Producers of plastic packaging must be involved from design concept to end-of-life management to incentivize innovation and research to minimize environmental impacts and to ensure funding for stewardship of plastic packaging.

(2) Additionally, the legislature finds that, through design and innovation, it is possible for industry to achieve the goals of recycling one hundred percent of packaging, using at least twenty percent postconsumer recycled content in packaging, and reducing plastic packaging when possible to optimize the use to meet the need.

(3) The legislature intends that a program for plastic packaging stewardship or alternative programs that meet the goal of reducing plastic packaging in the waste stream be developed and implemented by January 1, 2021.

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

(1) "Brand" means a name, symbol, word, or mark that identifies a product, rather than its components, and attributes the covered product to the owner of the brand as the producer.

(2) "Covered product" means a product designated by the legislature, either individually or as an item within a covered product category. "Covered product" includes all materials that make up a covered product.

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

(4) "Producer" means a person who:

(a) Has legal ownership of the brand, brand name, or cobrand of a covered product sold in or into Washington state;

(b) Imports a covered product branded by a producer that meets (a) of this subsection and where that producer has no physical presence in the United States;

(c) If (a) and (b) of this subsection do not apply, makes an unbranded product that is sold in or into Washington state; or

(d) Sells at wholesale or retail a covered product, does not have legal ownership of the brand, and elects to fulfill the responsibilities of the producer for that product.

(5) "Product stewardship" means a requirement for a producer of a covered product to manage and reduce adverse safety, health, and environmental impacts of the covered product throughout its life cycle, including end-of-life management.

(6) "Product stewardship plan" or "plan" means a detailed plan developed by the producers or the designated stewardship organization describing the manner in which a product stewardship program will be implemented.

(7) "Product stewardship program" or "program" means a program financed and provided by producers or a group of producers of covered products that addresses product stewardship and includes collecting, transporting, reuse processing, and final disposition of unwanted products, including a fair share of orphan products.

(8) "Recycling" has the same meaning as defined in RCW 70.95.030.

(9) "Reuse" means a change in ownership of a covered product or its components and parts for use in the same manner and purpose for which it was originally purchased.

(10) "Stakeholder" means a person who may have an interest in or be affected by a product stewardship program.

(11) "Stewardship organization" means a nonprofit organization that has qualified under section 501(c)(3) of the internal revenue code and is designated and financed by a producer or group of producers to act as an agent on behalf of each producer to operate a product stewardship program.

(12) "Unwanted product" means a covered product no longer wanted by its owner or that has been abandoned, discarded, or is intended to be discarded by its owner.

NEW SECTION. **Sec.**  (1) The department must evaluate and assess the amount and types of plastic packaging sold into the state as well as the management and disposal of plastic packaging. When conducting the evaluation, the department must ensure that producers, providers of solid waste management services, and stakeholders are consulted. The department must produce a report that includes:

(a) An assessment of the:

(i) Amount and types of plastic packaging currently coming into the state by category;

(ii) Full cost of managing plastic packaging waste, including the cost to ratepayers, businesses, and others, with consideration given to costs that are determined by volume or weight;

(iii) Final disposition of all plastic packaging sold into the state, based on current information available at the department;

(iv) Costs and savings to all stakeholders in existing product stewardship programs where they have been implemented including, where available, the specific costs for the management of plastic packaging;

(v) Needed infrastructure necessary to implement a product stewardship program; and

(vi) Existing stewardship organizations and databases for managing product stewardship programs that could be employed for use in developing a program in the state;

(b) A compilation of:

(i) All the programs currently managing plastic packaging in the state, including all end-of-life management and litter and contamination cleanup; and

(ii) Existing studies regarding the final disposition of plastic packaging and materials recovery facilities residual composition, including data on cross-contamination of other recyclables, contamination in compost, and brand data in litter when available; and

(c) A review of industry and any other domestic or international efforts and innovations to reduce, reuse, and recycle plastic packaging, utilize recycled content in packaging, and develop new programs, systems, or technologies to manage plastics, including product stewardship.

(2) The department must contract with a third-party independent consultant to conduct the evaluation and assessment as required under subsection (1) of this section.

(3)(a) By October 31, 2020, the department must submit a report on the evaluation and assessment of plastic packaging to the appropriate committees of the legislature.

(b) The report required under this subsection must include:

(i) Findings regarding amount and types of plastic packaging sold into the state as well as the management and disposal of plastic packaging; and

(ii) Recommendations to meet the goals of reducing plastic packaging through industry lead or plastic packaging product stewardship to:

(A) Achieve one hundred percent recyclable, reusable, or compostable packaging in all goods sold in Washington by January 1, 2025;

(B) Achieve at least twenty percent postconsumer recycled content in packaging by January 1, 2025; and

(C) Reduce plastic packaging when possible optimizing the use to meet the need.

(c) For the purposes of legislative consideration, the recommendations required under (b)(ii) of this subsection must include options for programs that at least meet plastic packaging reduction goals as specified in (b) of this subsection and are able to be established and implemented by January 1, 2021. The recommendations must include draft legislation for: (i) A plastic packaging product stewardship program; (ii) industry lead programs; and (iii) any alternative options.

NEW SECTION. **Sec.**  Sections 1 through 3 of this act constitute a new chapter in Title 70 RCW.

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