

SENATE BILL REPORT

SB 6645

As of February 2, 2020

Title: An act relating to minimum recycled content requirements.

Brief Description: Concerning minimum recycled content requirements.

Sponsors: Senators Das, Carlyle, Wellman, Lovelett, Nguyen, Saldaña, Kuderer, Randall, Wilson, C., Salomon and Liias.

Brief History:

Committee Activity: Environment, Energy & Technology: 2/04/20.

Brief Summary of Bill

- Establishes postconsumer recycled plastic content requirements for certain beverage containers.
- Establishes civil penalties for manufacturers of beverage containers not meeting postconsumer recycled plastic content requirements.
- Authorizes the Department of Ecology to audit reports and implement and enforce penalties.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

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Background: For decades, China was the largest importer of recyclable paper, plastic, and scrap metal worldwide. In 2017, China implemented its national sword policy which banned the importation of certain types of solid waste and set strict contamination limits on recyclable materials. In 2018, China officially stopped accepting shipments with mixed trash, wrong types of recyclable materials, or low-quality recyclable materials. China's ban reduced the rate of materials accepted, which created significant global repercussions for managing solid waste.

In 2019, the Legislature established the Recycling Development Center (Center) at the Department of Ecology (Ecology), in consultation with the Department of Commerce (Commerce), to facilitate research and development, marketing, and policy analysis for

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recycling markets and processing in Washington. The Center's efforts include determining how to overcome barriers preventing productive reuse of materials and preventing these materials from entering the waste stream. The Center also works with businesses to develop processes and methods for converting or remanufacturing waste materials into usable or marketable materials or products for use, especially those using mixed waste paper and plastics.

A tax is imposed on businesses whose products, including packaging, wrapping, and containers are reasonably related to the litter problem in the state. Types of products falling under this tax include beer, cigarettes, soft drinks, newspapers and magazines, glass containers, metal containers, and household paper and paper products. Revenues from the litter tax are allocated to Ecology. Ecology is the coordinating agency between organizations looking to assist in waste reduction, litter control, and recycling, as well as with state agencies and local governments receiving funding for litter control and recycling activities. Litter tax funds are used by Ecology to coordinate litter collection programs with state agencies. Local governments also receive funding for waste reduction, litter control, and recycling activities.

Summary of Bill: Postconsumer Recycled Plastic Content Requirements. Any individual, separate, sealed plastic bottle, bladder, or pouch containing one gallon or less of certain beverages must meet recycled plastic content requirements. The beverages must be intended for human or animal consumption, offered for sale, sold or distributed into Washington, and includes:

- water or flavored water;
- beer or other malt beverages;
- wine;
- mineral water, soda water and other carbonated soft drinks, and
- any other beverage as determined by Ecology through rule.

The recycled plastic content requirements do not apply to infant formula, refillable plastic beverage containers, and medical devices or products that are rigid plastic containers or bottles that are required to be sterile and used for prescription medicine, or as packaging for these medical items. Ecology may exempt other beverages through rule.

Plastic Beverage Container Recycled Content Requirements. Postconsumer recycled plastic content requirements are established on the total number of plastic beverage containers sold, offered for sale, or distributed in Washington by a beverage manufacturer. Plastic beverage containers must, on an average annual basis, contain no less than the following postconsumer recycled plastic:

- between January 1, 2021 and December 31, 2024—15 percent;
- between January 1, 2025 and December 31, 2029—25 percent;
- between January 1, 2030 and December 31, 2034—50 percent; and
- on and after January 1, 2035—75 percent.

Ecology may grant extensions to the recycled plastic content requirements when it determines a beverage manufacturer has made a substantial effort but has failed to meet the minimum recycled plastic content requirements due to extenuating circumstances that are out of the beverage manufacturer's control.

Reporting Requirements. Beginning March 1, 2021, and annually thereafter, manufacturers of covered beverages must report to Ecology in pounds and by resin type the amount of virgin plastic and postconsumer recycled plastic used for plastic beverage containers of beverages sold, offered for sale, or distributed in Washington in the previous calendar year. The beverage manufacturer must submit this information to Ecology under penalty of perjury.

Enforcement. Ecology may conduct audits and inspections, and take enforcement action against a beverage manufacturer, to ensure compliance with the recycled content requirements, based on information reported by beverage manufacturers.

Civil Penalties. A beverage manufacturer not meeting the minimum recycled plastic content requirements is subject to a civil penalty. For each plastic beverage container reported a civil penalty is assessed as follows when the manufacturer's compliance rate for minimum recycled plastic content is at least:

- 75 percent, but less than 100 percent—a civil penalty of \$0.0025;
- 50 percent, but less than 75 percent—a civil penalty of \$0.005;
- 25 percent, but less than 50 percent—a civil penalty of \$0.01; and
- 15 percent, but less than 25 percent—a civil penalty of \$0.015.

A manufacturer is subject to a \$0.02 civil penalty for each plastic beverage container reported when its compliance rate is less than 15 percent of the minimum recycled plastic content requirements.

Manufacturers must pay civil penalties to Ecology and they may be paid in quarterly installments. All penalties are appealable to the Pollution Control Hearings Board.

If the actual average postconsumer recycled plastic content used by a beverage manufacturer in a given year was lower than reported, a manufacturer is liable for an additional civil penalty. The penalty is equal to 115 percent of the difference between the beverage manufacturer's audited actual average postconsumer recycled plastic content percentage and the percentage reported, multiplied by the total number of pounds of plastic used by that beverage manufacturer for covered beverage containers, multiplied by \$1.

Recycling Enhancement Penalty Account. The Recycling Enhancement Penalty Account (Account) is created in the custody of the state treasurer. All penalties collected by Ecology related to the recycled content requirements must be deposited in the Account. Money in the Account may be spent only after appropriation. Expenditures from the Account may be used by Ecology only for supporting waste reduction, litter collection, and the recycling, infrastructure, collection, and processing of plastic beverage containers in Washington.

Confidentiality of Trade Secrets and Proprietary Information. Ecology must keep confidential all business trade secrets and proprietary information about manufacturing processes and equipment it gathers or becomes aware of through the course of conducting audits or inspections. Information submitted to Ecology containing business trade secrets or proprietary information about manufacturing processes and equipment is exempt from disclosure under the Public Records Act.

Appropriation: None.

Fiscal Note: Requested on January 31, 2020.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.