
HOUSE BILL 2722

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By Representatives Mead, Fitzgibbon, Peterson, Doglio, Goodman, Gregerson, Slatter, Tarleton, Davis, Duerr, Ramel, Walen, Cody, Senn, and Pollet

Read first time 01/20/20. Referred to Committee on Environment & Energy.

1 AN ACT Relating to minimum recycled content requirements; adding
2 a new section to chapter 42.56 RCW; adding a new chapter to Title 70
3 RCW; creating a new section; and prescribing penalties.

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

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

12 (2) China's 2018 national sword policy bans the importation of
13 recycled mixed paper and certain types of recycled plastic and
14 imposes a stringent one-half of one percent contamination limit on
15 all other recycled material imports. Washington's recycling
16 facilities are struggling to find markets for recycled materials,
17 resulting in the stockpiling of these materials. Washington must
18 reduce its reliance on unpredictable foreign markets for its recycled
19 materials.

20 (3) Plastic and glass bottles can be recycled and can contain
21 recycled content in order to close the loop in the recycling stream.

1 Many companies have already taken the initiative at closing the loop
2 by using plastic bottles that contain one hundred percent recycled
3 content. Since November 2010, one national juice company has been
4 using bottles made with one hundred percent postconsumer recycled
5 content for all of its juices and juice smoothies. In January 2018,
6 an international beverage producer announced that it will make all
7 its bottles from one hundred percent recycled plastic by 2025.

8 (4) The requirements imposed by this chapter are reasonable and
9 are achievable at minimal cost relative to the burden imposed by the
10 continued excessive use of virgin materials in beverage containers in
11 Washington.

12 NEW SECTION. **Sec. 2.** (1)(a) Between January 1, 2021, and
13 December 31, 2024, inclusive, the total number of plastic beverage
14 containers filled with a beverage described in section 4 of this act
15 that are sold, offered for sale, or distributed in Washington by a
16 beverage manufacturer must, on an average annual basis, contain no
17 less than fifteen percent postconsumer recycled plastic.

18 (b) Between January 1, 2025, and December 31, 2029, inclusive,
19 the total number of plastic beverage containers filled with a
20 beverage described in section 4 of this act that are sold, offered
21 for sale, or distributed in Washington by a beverage manufacturer
22 must, on an average annual basis, contain no less than twenty-five
23 percent postconsumer recycled plastic.

24 (c) Between January 1, 2030, and December 31, 2034, inclusive,
25 the total number of plastic beverage containers filled with a
26 beverage described in section 4 of this act that are sold, offered
27 for sale, or distributed in Washington by a beverage manufacturer
28 must, on an average annual basis, contain no less than fifty percent
29 postconsumer recycled plastic.

30 (d) On and after January 1, 2035, the total number of plastic
31 beverage containers filled with a beverage described in section 4 of
32 this act that are sold, offered for sale, or distributed in
33 Washington by a beverage manufacturer must, on an average annual
34 basis, contain no less than seventy-five percent postconsumer
35 recycled plastic.

36 (2) The department of ecology may grant extensions to the minimum
37 recycled plastic content requirements required under subsection (1)
38 of this section if the department of ecology makes a finding that a
39 beverage manufacturer has made a substantial effort but has failed to

1 meet the minimum recycled plastic content requirements due to
2 extenuating circumstances that are out of the beverage manufacturer's
3 control.

4 (3) On or before March 1, 2021, and annually thereafter, a
5 beverage manufacturer of a beverage described in section 4 of this
6 act sold in a plastic beverage container described in section 4 of
7 this act shall report to the department of ecology in pounds and by
8 resin type the amount of virgin plastic and postconsumer recycled
9 plastic used by the beverage manufacturer for plastic beverage
10 containers containing a beverage described in section 4 of this act
11 sold, offered for sale, or distributed in Washington in the previous
12 calendar year. The beverage manufacturer shall submit this
13 information to the department of ecology under penalty of perjury.

14 (a) The department of ecology shall post the information reported
15 under this subsection on the department's web site.

16 (b) This subsection does not apply to a refillable plastic
17 beverage container.

18 (4)(a) A beverage manufacturer that does not meet the minimum
19 recycled plastic content requirements established in subsection (1)
20 of this section is subject to a civil penalty pursuant to this
21 subsection. The amount of the penalty is as follows for each plastic
22 beverage container described in section 4 of this act:

23 (i) Two and one-half mills (\$0.0025) for each plastic beverage
24 container reported when the overall compliance rate is at least
25 seventy-five percent but less than one hundred percent of the
26 required recycled plastic content percentage established in
27 subsection (1) of this section.

28 (ii) Five mills (\$0.005) for each plastic beverage container
29 reported when the overall compliance rate is at least fifty percent
30 but less than seventy-five percent of the required recycled plastic
31 content percentage established in subsection (1) of this section.

32 (iii) One cent (\$0.01) for each plastic beverage container
33 reported when the overall compliance rate is at least twenty-five
34 percent but less than fifty percent of the required recycled plastic
35 content percentage established in subsection (1) of this section.

36 (iv) One and one-half cents (\$0.015) for each plastic beverage
37 container reported when the overall compliance rate is at least
38 fifteen percent but less than twenty-five percent of the required
39 recycled plastic content percentage established in subsection (1) of
40 this section.

1 (v) Two cents (\$0.02) for each plastic beverage container
2 reported when the overall compliance rate is less than fifteen
3 percent of the required recycled plastic content percentage
4 established in subsection (1) of this section.

5 (b) The department of ecology shall adjust, at the beginning of
6 each biennium, the penalty amounts assessed pursuant to this
7 subsection to reflect changes in the consumer price index for all
8 urban consumers for the previous biennium as calculated by the United
9 States department of labor.

10 (5) A beverage manufacturer shall pay the penalties assessed
11 pursuant to this section, as applicable, based on the information
12 reported to the department of ecology under subsection (3) of this
13 section in the form and manner prescribed by the department of
14 ecology.

15 (6) A beverage manufacturer that is assessed penalties under this
16 section may pay those penalties to the department of ecology in
17 quarterly installments or may arrange an alternative payment schedule
18 subject to the approval of the department of ecology.

19 (7) Penalties assessed under this subsection may be appealed to
20 the pollution control hearings board pursuant to the administrative
21 procedure act, chapter 34.05 RCW.

22 (8) The department of ecology may conduct audits and inspections
23 and take enforcement action pursuant to subsection (4) of this
24 section against a beverage manufacturer for the purpose of ensuring
25 compliance with this section based on the information reported under
26 subsection (3) of this section.

27 (9) If it is established through an audit, inspection, or other
28 means that the actual average postconsumer recycled plastic content
29 used by a beverage manufacturer in a given year was lower than the
30 percentage reported pursuant to this section, the beverage
31 manufacturer is liable for an additional civil penalty equal to one
32 hundred fifteen percent of the difference between the beverage
33 manufacturer's audited actual average postconsumer recycled plastic
34 content percentage and the percentage reported under this section,
35 multiplied by the total number of pounds of plastic used by that
36 beverage manufacturer for beverage containers described in section 4
37 of this act, multiplied by one dollar.

38 (10) The department of ecology shall keep confidential all
39 business trade secrets and proprietary information about
40 manufacturing processes and equipment that the department gathers or

1 becomes aware of through the course of conducting audits or
2 inspections pursuant to subsection (8) of this section.

3 (11) This section does not apply to:

4 (a) Refillable plastic beverage containers; or

5 (b) Rigid plastic containers or rigid plastic bottles that are
6 medical devices, medical products that are required to be sterile,
7 prescription medicine, and packaging used for those products.

8 (12) The legislature encourages beverage manufacturers to use
9 plastic beverage containers that contain one hundred percent recycled
10 plastic content.

11 (13) For the purposes of this section, "beverage manufacturer"
12 means a manufacturer of one or more beverages described in section 4
13 of this act that are sold, offered for sale, or distributed in
14 Washington.

15 NEW SECTION. **Sec. 3.** The recycling enhancement penalty account
16 is created in the custody of the state treasurer. All penalties
17 collected by the department of ecology pursuant to section 2 of this
18 act must be deposited in the account. Moneys in the account may be
19 spent only after appropriation. Expenditures from the account may be
20 used by the department of ecology only for supporting waste
21 reduction, litter collection, and the recycling, infrastructure,
22 collection, and processing of plastic beverage containers in this
23 state.

24 NEW SECTION. **Sec. 4.** Sections 2 through 4 of this act apply
25 only to any individual, separate, sealed plastic bottle, bladder, or
26 pouch, except for polycoated cartons, foil pouches, and drink boxes
27 that contain the following beverages, intended for human or animal
28 consumption and in a quantity less than or equal to one gallon,
29 offered for sale, sold, or distributed in Washington:

30 (1) The following beverages, intended for human or animal
31 consumption and in a quantity less than or equal to one gallon:

32 (a) Water and flavored water;

33 (b) Beer or other malt beverages;

34 (c) Wine; and

35 (d) Mineral waters, soda water, and similar carbonated soft
36 drinks;

37 (2) Any beverage other than those specified in subsection (1) of
38 this section that is intended for human or animal consumption and is

1 in a quantity more than or equal to two fluid ounces and less than or
2 equal to one gallon, except infant formula or any other exemptions
3 adopted by the department of ecology by rule.

4 NEW SECTION. **Sec. 5.** A new section is added to chapter 42.56
5 RCW to read as follows:

6 Information submitted to the department of ecology under chapter
7 70.--- RCW (the new chapter created in section 6 of this act), that
8 contains business trade secrets or proprietary information about
9 manufacturing processes and equipment, is exempt from disclosure
10 under this chapter.

11 NEW SECTION. **Sec. 6.** Sections 2 through 4 of this act
12 constitute a new chapter in Title 70 RCW.

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