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**SUBSTITUTE SENATE BILL 5397**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senate Environment, Energy & Technology (originally sponsored by Senators Rolfes, Carlyle, Darneille, Saldaña, Hasegawa, Hunt, and Kuderer)

READ FIRST TIME 02/08/19.

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

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

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

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

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

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

18 (2) Additionally, the legislature finds that producers of plastic  
19 products must take responsibility for the design and management of  
20 their packaging in a manner that ensures minimal environmental  
21 impact. Producers of plastic packaging must be involved from design

1 concept to end-of-life management to incentivize innovation and  
2 research to minimize environmental impacts and to ensure funding for  
3 stewardship of plastic products.

4 (3) The legislature intends that a program for plastic product  
5 stewardship be developed and implemented by January 1, 2022.

6 NEW SECTION. **Sec. 2.** The definitions in this section apply  
7 throughout this chapter unless the context clearly requires  
8 otherwise.

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

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

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

17 (4) "Producer" means a person who:

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

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

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

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

28 (5) "Product stewardship" means a requirement for a producer of a  
29 covered product to manage and reduce adverse safety, health, and  
30 environmental impacts of the covered product throughout its life  
31 cycle.

32 (6) "Product stewardship plan" or "plan" means a detailed plan  
33 describing the manner in which a product stewardship program will be  
34 implemented.

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

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

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

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

7 (11) "Stewardship organization" means an organization designated  
8 by a producer to act as an agent on behalf of the producer to operate  
9 a product stewardship program.

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

13 NEW SECTION. **Sec. 3.** (1) The department must evaluate and

14 assess the amount and types of plastic packaging sold into the state  
15 as well as the management and disposal of plastic packaging. When  
16 conducting the evaluation, the department must ensure that producers,  
17 providers of solid waste management services, and stakeholders are  
18 consulted. The department must produce a report that includes:

19 (a) An assessment of the:

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

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

25 (iii) Final disposition of all plastic packaging sold into the  
26 state;

27 (iv) Costs and savings to all stakeholders in product stewardship  
28 programs where they are implemented in other cities and solid waste  
29 management companies including, where available, the specific costs  
30 for the management of plastic packaging;

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

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

36 (b) A compilation of:

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

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

6 (c) A review of industry efforts and innovations to reduce,  
7 reuse, and recycle plastic packaging.

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

11 (3) By December 31, 2019, the department must submit a report on  
12 the evaluation and assessment of plastic packaging to the appropriate  
13 committees of the legislature. The report must include findings and  
14 recommendations for plastic packaging product stewardship.

15 NEW SECTION. **Sec. 4.** (1) The legislature designates plastic  
16 packaging as a covered product requiring product stewardship.

17 (2) The department must work with producers, local governments,  
18 and regulated and nonregulated service providers of solid waste  
19 services, including collection, recycling, sorting, reprocessing  
20 providers, and stakeholders to develop a product stewardship plan and  
21 implement a program for product stewardship for plastic packaging  
22 coming into and used in the state. The product stewardship program  
23 must at minimum include:

24 (a) Progressive management of plastic packaging to increase rates  
25 of recycling and reduce solid waste;

26 (b) A goal to reduce generation and disposal of plastic by at  
27 least five percent annually;

28 (c) Strategies to manage and reduce life-cycle impacts of  
29 products and packaging, from product design to end-of-life  
30 management, including ways to improve designing, packaging, and  
31 distributing products to:

32 (i) Reduce waste, energy intensity, toxicity, carbon footprints,  
33 and other environmental and health impacts;

34 (ii) Increase recycled content and product longevity; and

35 (iii) Make products more easily reusable or recyclable; and

36 (d) Education and outreach activities that include a description  
37 for working with and providing information about the program to  
38 retailers, wholesalers, collectors, and other interested parties to  
39 disseminate to covered entities.

1 (3) When developing a plan and program for plastic packaging  
2 product stewardship, the department must take into consideration the  
3 findings and recommendations provided in the report to the  
4 legislature as required under section 3 of this act.

5 (4) The department, producers, providers of services, and  
6 stakeholders must aspire to establish a product stewardship program  
7 by January 1, 2022.

8 (5) The department may adopt rules necessary to implement and  
9 enforce a product stewardship program. The rules may include fees  
10 sufficient to cover the department's cost for administering the  
11 program. All fees must be deposited into the plastic products  
12 stewardship account created in section 5 of this act.

13 NEW SECTION. **Sec. 5.** The plastic products stewardship account  
14 is created in the state treasury. All receipts from the product  
15 stewardship program must be deposited into the account. Moneys in the  
16 account may be spent only after appropriation. Expenditures from the  
17 account may be used only for the purposes of this chapter.

18 NEW SECTION. **Sec. 6.** The requirements of sections 3 and 4 of  
19 this act are subject to the availability of funding under the waste  
20 reduction, recycling, and litter control account, RCW 70.93.180.

21 NEW SECTION. **Sec. 7.** Sections 1 through 5 of this act  
22 constitute a new chapter in Title 70 RCW.

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