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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 Rolfe, Carlyle, Darneille, Saldaña, Hasegawa, Hunt, and Kuderer)

READ FIRST TIME 03/01/19.

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

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

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

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

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

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

17 (d) Producers of plastic packaging must take responsibility for  
18 the design and management of their packaging in a manner that ensures  
19 minimal environmental impact. Producers of plastic packaging must be  
20 involved from design concept to end-of-life management to incentivize

1 innovation and research to minimize environmental impacts and to  
2 ensure funding for stewardship of plastic packaging.

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

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

12 NEW SECTION. **Sec. 2.** The definitions in this section apply  
13 throughout this chapter unless the context clearly requires  
14 otherwise.

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

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

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

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

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

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

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

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

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

38 (6) "Product stewardship plan" or "plan" means a detailed plan  
39 developed by the producers or the designated stewardship organization

1 describing the manner in which a product stewardship program will be  
2 implemented.

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

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

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

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

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

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

22 NEW SECTION. **Sec. 3.** (1) The department must evaluate and  
23 assess the amount and types of plastic packaging sold into the state  
24 as well as the management and disposal of plastic packaging. When  
25 conducting the evaluation, the department must ensure that producers,  
26 providers of solid waste management services, and stakeholders are  
27 consulted. The department must produce a report that includes:

28 (a) An assessment of the:

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

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

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

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

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

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

6 (b) A compilation of:

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

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

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

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

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

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

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

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

33 (A) Achieve one hundred percent recyclable, reusable, or  
34 compostable packaging in all goods sold in Washington by January 1,  
35 2025;

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

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

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

9 NEW SECTION. **Sec. 4.** Sections 1 through 3 of this act  
10 constitute a new chapter in Title 70 RCW.

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