

SENATE BILL REPORT

SB 5697

As Reported by Senate Committee On:
Environment, Energy & Technology, February 2, 2022

Title: An act relating to renewing Washington's recycling system and reducing waste.

Brief Description: Renewing Washington's recycling system and reducing waste.

Sponsors: Senators Das, Rolfes, Kuderer, Lovelett, Lovick, Nguyen, Pedersen, Saldaña and Stanford.

Brief History:

Committee Activity: Environment, Energy & Technology: 1/18/22, 2/02/22 [DPS-WM, DNP].

Brief Summary of First Substitute Bill

- Establishes a program for the management of consumer packaging and paper products to be funded and implemented by producers of those products, including reuse and recycling rate targets, convenient collection service standards, responsible management, infrastructure investments, and education and outreach.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

Majority Report: That Substitute Senate Bill No. 5697 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Carlyle, Chair; Lovelett, Vice Chair; Das, Lias, Lovick, Nguyen, Stanford and Wellman.

Minority Report: Do not pass.

Signed by Senators Fortunato and Sheldon.

Staff: Gregory Vogel (786-7413)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background: Department of Ecology Plastics and Recycling Evaluations. In 2019, the Legislature directed the Department of Ecology (Ecology) to evaluate and assess the amount and types of plastic packaging sold into the state, as well as its management and disposal. The report was required to assess specified aspects of plastic packaging markets and processing infrastructure, and to include recommendations to meet the following goals of reducing plastic packaging through industry lead or product stewardship:

- achieve 100 percent recyclable, reusable, or compostable packaging in all goods sold in Washington by January 1, 2025;
- achieve at least 20 percent postconsumer recycled content in packaging by January 1, 2025; and
- reduce plastic packaging when possible, optimizing the use to meet the need.

In December 2020, Ecology submitted a report to the Legislature that included 10 policy recommendations related to the management of packaging materials.

2021 Plastics Legislation. In 2021, the Legislature established minimum recycled content requirements, a prohibition on certain expanded polystyrene (EPS) products, and optional food service ware requirements. The legislation sets varying minimum content rates and implementation dates for plastic beverage containers, plastic household cleaning and personal care product containers, and plastic bags. The sale and distribution of certain EPS products is prohibited, beginning June 1, 2023, for void filling packaging products, and June 1, 2024, for cold storage containers and food service products.

Beginning January 1, 2022, food service businesses may only provide single-use utensils, condiment packaging, and beverage cup lids only after affirming the customer wants the product. Exemptions are provided for hot beverages, delivery services or pickup, service via a drive-through, or at certain large music and sports venues.

Solid Waste Services. The Utilities and Transportation Commission (UTC) regulates haulers transporting solid waste, garbage, and recyclables from residential sites. The certificate to transport garbage and recyclables sets the geographic areas in which the company is authorized to collect waste. Cities and towns have the authority to provide their own solid waste services or to contract for solid waste services. Solid waste services provided or contracted by cities and towns are not subject to UTC regulation. Materials collected for recycling are transported to material recovery facilities, which receive, compact, repackage, or sort materials for the purposes of recycling.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (First Substitute): Producer Responsibility Organization Duties. Beginning January 15, 2023, and annually thereafter, each producer that offers for sale, sells, or distributes in or into Washington covered products must join a producer responsibility organization (PRO) that is registered with Ecology.

Covered products include packaging and paper products sold or supplied to consumers. A producer is the entity responsible for compliance with PRO requirements and is one of the following:

- for items sold in packaging at a physical retail location:
 - if the item is sold in packaging under the manufacturer's own brand or sold in packaging that lacks identification of a brand, the producer is the manufacturer;
 - if the item is manufactured by a person other than the brand owner, the producer is the licensee of a brand or trademark;
 - if there no person described as the manufacturer or licensee, the producer is the importer;
- for items sold in packaging via remote sale or distribution:
 - the producer of packaging used to protect or contain the item is considered the same as a producer for a physical retail location;
 - the producer of packaging used to ship the item is the person that packages and ships the item to the consumer;
- for all other packaging, the producer is the person that first distributes the packaged item in the state;
- for paper products that are magazines, newspapers, catalogs, telephone directories or similar publications, the producer is the publisher; and
- for other paper products, the producer identification hierarchy is similar to that for physical retail locations.

PROs must submit the following with their registration:

- a list of all member producers and their brands of covered products, and members of the board of directors; and
- data on covered products supplied into the state to consumers, until a PRO begins to submit annual reports.

By June 30, 2023, and every June 30th thereafter, every PRO must submit an annual payment, as determined by Ecology, to fund the:

- costs to implement, administer, and enforce the program, including rule making;
- statewide needs assessment;
- reuse and recycling rate targets study; and
- support and facilitation of the Renew Advisory Council.

Beginning July 1, 2025, or within six months of the first adoption of rules relating to the program, whichever is later, every PRO must submit a plan to Ecology for approval.

A PRO registered with Ecology as of January 15, 2025, must:

- implement its plan approved by Ecology by July 1, 2026, or within six months of plan approval, whichever is later; and
- submit an annual report for the prior calendar year to Ecology by July 1, 2027, and each July 1st, thereafter.

PROs that register after January 15, 2025, must submit a plan within one year of registration, and implement the plan within six months of approval.

A PRO that submits information or records to Ecology may request that it be made available only for the confidential use of Ecology, and Ecology must grant this request if not otherwise in conflict with state law or detrimental to the public interest.

Department Duties. Ecology must implement, administer, and enforce the program, and is authorized to adopt rules for this purpose. By April 1, 2023, and every April 1st thereafter, Ecology must identify annual costs to implement, administer, and enforce the program in the next fiscal year, and determine a total annual fee payment to be paid by each PRO that is adequate to cover, but not exceed these costs, and the costs of the statewide needs assessment, the reuse and recycling rate targets study, and support and facilitation of the Renew Advisory Council.

Beginning January 1, 2028, and no more frequently than every five years, Ecology may by rule require PROs to fund activities to make convenient recycling collection services available from additional locations or entities determined to be significant sources of covered product waste, including but not limited to public places and official gatherings.

Ecology must maintain a public website that lists each PRO and its member producers, and makes available PRO plans and reports. Ecology may impose a civil penalty up to \$1000 per violation per day on any person who violates provisions of the program and up to \$10,000 per violation per day for any second and subsequent violation.

Statewide Needs Assessment. Ecology must conduct a statewide needs assessment, to be completed within two years of the effective date of the act, subject to the following requirements:

- the final scope of the assessment must be determined based on comments and recommendations from the Renew Advisory Council, the UTC, and any PRO registered by January 15, 2023; and
- these entities must have the opportunity to review and comment on a draft assessment prior to its completion.

The assessment must be carried out by a third-party consultant selected by Ecology, funded by PROs, informed by the reuse and recycling rate targets study, and accepted from the selected consultant as complete by Ecology.

The assessment must:

- evaluate the capacity, costs, gaps, and needs for factors, such as availability of recycling services for covered products; education and outreach activities; and availability and performance of collection, transport, and processing capacity and infrastructure;
- compile information related to actual costs incurred by government agencies for

- collection services and other relevant information for PRO funding requirements;
- identify cost factors and other variables to be considered in the development of base cost formulas for establishing per unit reimbursement rates to government agencies;
- identify issues to be considered in the development of a service agreement template for services delivered by government agencies;
- compile relevant information for criteria to determine whether a covered product is recyclable, reusable, or compostable;
- evaluate how the state's recycling system can be managed in a socially just manner for purposes of informing PRO plans; and
- evaluate the extent to which covered products contribute to litter and marine debris for informing how a PRO can support litter and marine debris prevention.

Stakeholder Consultation. Prior to submitting new or revised plans to Ecology, a PRO must consult with and solicit and respond to input and recommendations from the Renew Advisory Council, the UTC, and other stakeholders.

PRO Plan Contents. A PRO must submit a plan to Ecology describing the approach and activities to fulfill program requirements.

All plans and plan updates must contain several elements, including:

- identification of the governing board members of the PRO;
- a list and explanation of the covered products supplied or sold into Washington by each member producer and their brands;
- the collection and structure of the fees owed by producers to implement the plan;
- how the PRO will encourage and incentivize waste prevention and reduction;
- how the PRO will use and interact with existing recycling programs and infrastructure;
- how the PRO will fund reuse and recycling infrastructure and market development;
- activities to be undertaken to meet the proposed reuse and recycling rate targets;
- a list of covered products designated for collection;
- activities to make collection services available in accordance with the convenience standards;
- the jurisdictions where curbside collection services are available;
- education and outreach activities;
- a description of how plan implementation will ensure responsible management practices;
- activities to facilitate recycling of covered products back into covered products and encourage development of circular economic activity in the state and region; and
- a description of the base cost formulas to be used to calculate per unit reimbursement rates to government agencies for services delivered.

Collection and Management. Covered products must be managed in a manner consistent with the state's solid waste management hierarchy. Covered products must be responsibly managed at facilities operating with human health and environmental protection standards

broadly equivalent to or better than those required in the U.S. and other countries that are members of the Organization for Economic Cooperation and Development.

PRO plans must include measures to:

- track, verify, and publicly report the responsible management of covered products;
- promote and facilitate reuse of covered products designed to be reused;
- meet quality standards for recycled materials so that covered products may be used to manufacture new products; and
- document the locations of all material recovery facilities and processing facilities.

Prior to use of any advanced technology for conversion of postuse plastic polymers for the purpose of producing recycled material, the PRO must provide Ecology with a third-party assessment to examine the environmental impacts of the technology.

Material recovery facilities and other processing facilities receiving covered products must measure and report annually on parameters such as tons received, material quality and contamination, outbound tons and end markets, residuals, pollutant emissions, and labor metrics.

To facilitate recycling of covered products back into covered products and encourage development of circular economic activity in the state and region, material recovery facilities and other processing facilities must prioritize agreements with and on behalf of producers or PROs regarding long-term contracts and other purchase agreements based on fair market pricing for commodities of comparable quality.

Reuse and Recycling Rate Targets. To inform the development of initial reuse and recycling rate targets to be proposed by PROs, Ecology must conduct a reuse and recycling rate targets study, to be completed within one year of the effective date of the act. The study must be carried out by a third-party consultant, funded by PROs, and:

- assess the reuse and recycling rates currently being achieved in the state for covered products;
- review the reuse and recycling rate targets set and achieved in jurisdictions with producer responsibility for packaging or similar programs and evaluate whether those rates are applicable; and
- recommend reuse and recycling rate targets, including a target for an overall combined reuse and recycling rate of covered products, including a separate target for a minimum reuse rate, to be achieved for covered products statewide by the ninth calendar year from the effective date of the act, with consideration of feasibility of achieving the targets based on the review of current rates, rates in other jurisdictions, and other relevant data.

The Renew Advisory Council and any PRO registered by January 15, 2023, must have the opportunity to review and comment on a draft version of the study prior to its completion.

Beginning January 1, 2028, and no more frequently than every five years, Ecology may update the study to inform reuse and recycling rate targets.

By September 1, 2023, any registered PRO must submit to Ecology proposed reuse and recycling rate targets for covered products to be achieved by the ninth calendar year from the effective date of the act. In proposing the targets, the PRO must:

- consider the targets recommended in the study;
- propose, at minimum, a target for an overall combined reuse and recycling rate of covered products, with a separate target for minimum reuse;
- provide a justification for the targets proposed if they are different from those recommended by the study; and
- adhere to the reuse and recycling rate calculation methodology.

Any PRO plan must include targets for covered products to be achieved by the end of the plan implementation period. At a minimum, the plan must include:

- a target overall combined reuse and recycling rate of covered products;
- a separate target minimum reuse rate of covered products; and
- a target combined reuse and recycling rate for each material category of covered products.

Proposed targets must demonstrate continuous improvement over time and adhere to the reuse and recycling rate calculation methodology. Any plan submitted to Ecology prior to the ninth calendar year from the effective date of the act must also include reuse and recycling rate targets to be achieved by the ninth calendar year from the effective date of the act.

Calculation methodologies for measuring the combined reuse and recycling rate and for measuring recycled material for each material category are provided.

Funding Requirements. A PRO implementing a plan must fully fund all activities required under the program. A PRO must develop a fee system to collect fees from participating producers that is based on the estimated cost of managing the material, or a similar approach proposed by the PRO, and uses ecomodulation factors to incentivize the use of packaging design attributes that reduce the environmental impacts of covered products.

Convenience Standards. In every jurisdiction in which covered products are sold or supplied, a PRO must fund activities to make convenient collection services available for the full list of covered products designated for collection in the plan. Convenient collection services must be available to residents as follows:

- curbside collection must be provided to residents in single-family and multifamily residences where curbside garbage collection services are provided, except for covered products designated for alternate collection;
- in jurisdictions without curbside garbage collection, and in all areas for covered products designated for alternate collection, free and equitable access to permanent collection facilities must be provided that are located at minimum at:

- each existing solid waste transfer, processing, disposal site or other drop-off location, or a location of equal convenience; and
- additional drop-off locations or collection events in communities not covered by curbside garbage collection or the other alternate collection methods.

In any jurisdiction where collection of source separated recyclable materials from residences is provided by a city, town, county, or UTC-regulated company, a PRO must meet its curbside collection service obligation through the existing curbside collection service.

A PRO must, in its plan, establish a statewide list of covered products designated for collection.

Government Agencies—Collection Authority. The provisions of the program do not obligate a county, city, or town to participate in a plan implemented by a PRO, or restrict the waste collection authorities of those entities. A city, town, county, or other government agency may enter into agreements with PROs for purposes of reimbursement of costs of services provided in accordance with the program.

Where a city, town, or county chooses not to exercise its collection authority, curbside collection of covered products designated for collection in areas regulated by UTC must be provided by a company that holds an applicable certificate issued by UTC to transport garbage and recyclables.

A city, town, or county may not enact an ordinance requiring producers of covered products to provide additional residential recycling services for covered products unless producers are not required to fully fund the requirements of the program.

Cost Reimbursement for Services Provided by Government Agencies. A PRO with covered products designated for curbside collection under its plan must provide reimbursement to a government agency that chooses to seek reimbursement for costs incurred in delivering curbside collection services. Reimbursable costs include, as applicable, any administrative, public education, collection, and transportation, and sorting or processing costs incurred in delivering curbside collection services in accordance with the program requirements. Reimbursements for curbside collection services must be calculated using base cost formulas established in the PRO plan approved by Ecology. If a PRO elects to use the services of government agency for any other services included in the PRO plan, it must provide reimbursement, which may be calculated using rates established for additional services in the PRO plan.

Reimbursement for Services Regulated by UTC. In areas where collection of source separated recyclable materials from residences is regulated by UTC, a PRO must provide reimbursement to the company granted a certificate to provide service in accordance with rates approved by UTC, provided that the service meets program requirements.

Service Provider Agreements. Except for curbside collection services provided in accordance with program requirements, a PRO that enters into contractual agreements with service providers to carry out producer responsibilities must:

- use fair and competitive procurement practices;
- provide opportunities for women, minority, or veteran-owned businesses, small businesses, and independent operators;
- require that all contracted service providers meet minimum operating standards and high labor standards and provide fair opportunities regardless of ethnicity, race, gender, age, disability, religion, sexual orientation, or national origin; and
- require that contracted service providers maintain records and provide the PRO with verifiable chain of custody documentation to evaluate performance relative to the requirements of the program.

Infrastructure Investments. Each PRO must fund and support investments in reuse and recycling infrastructure and market development in Washington State as needed to achieve the convenience standards, responsible management standards, the reuse and recycling rate targets, or to address infrastructure gaps identified in the statewide needs assessment and through the consultation process.

This may include, but is not limited to:

- installing or upgrading equipment to improve sorting of covered products or mitigating impacts of covered products to other commodities at sorting and processing facilities; and
- capital expenditures for new technology, equipment, and facilities.

Education and Outreach. Each PRO plan must include an education and outreach component that effectively reaches diverse residents, is accessible, clear, and supports achievement of the reuse and recycling rate targets. The education and outreach component must, at minimum, develop outreach and educational materials, resources, and campaigns addressing information about:

- proper end-of-life management of covered products;
- where and how to recycle covered products designated for collection; and
- how to prevent contamination.

PRO Reporting. Beginning July 1, 2027, and each July 1st thereafter, each PRO must submit an annual report to Ecology, including:

- the quantity and weight of covered products supplied, separated by material category, to determine recycling and reuse rates and other performance categories;
- the final destinations of recycled material managed by the program;
- the reuse and recycling rates achieved by the program;
- a description of the levels and types of physical contamination in the materials collected and managed by the program;
- activities undertaken to meet the convenience standards for collection of covered

- products;
- a description of the investments made in reuse and recycling infrastructure and market development;
- actions taken to prevent and reduce waste and reduce life-cycle impacts of covered products;
- actions taken to design covered products to be reusable, recyclable, or compostable;
- the total cost of implementing the plan approved by Ecology; and
- other performance metrics related to the program.

Prior to the submission of the annual report, all nonfinancial data and information that is material to Ecology's review of program compliance must be audited.

Plan Approval, Updates, and Revisions. A PRO must submit a plan to Ecology that addresses five calendar years of operation. A plan is valid for no more than five years. Within three years of implementation of the initial plan, a PRO must submit an updated plan for the following five calendar years to address changes in the operations and activities of the program. For all subsequent plans, a PRO must submit an updated plan one year prior to the expiration of the plan.

If the reuse and recycling rate targets have not been met as of the time an updated plan is required, an independent evaluation must be conducted of the PRO's efforts and provide information for the PRO to improve reuse and recycling rate performance. Ecology may require a PRO to revise its plan more frequently if the program and activities to implement the plan fail to achieve the recycling and reuse rate targets or other significant requirements of the program.

Renew Advisory Council. The Renew Advisory Council is established and consists of the following members appointed by Ecology:

- four representatives of local governments representing geographic areas across the state;
- one representative of tribes or tribal or indigenous services organizations;
- one representative of special purpose districts;
- two representatives of community-based organizations representing overburdened communities and vulnerable populations;
- two representatives of environmental organizations;
- one owner or operator of a small business;
- six representatives of the recycling industry;
- four representatives of producers of covered products or producer trade associations; and
- two representatives of packaging suppliers that are not producers as defined by the program.

Councilmembers must be appointed by Ecology by January 1, 2023.

Duties of the council include:

- advise and make recommendations on the scope of the statewide needs assessment;
- review and comment on a draft reuse and recycling rate targets study and draft statewide needs assessment prior to completion;
- advise and make recommendations on PRO plans and reports; and
- provide input, review, and comment on program rule making.

Minimum Recycled Content. Minimum postconsumer recycled content standards are established for polypropylene tubs used for food products, polyethylene terephthalate (PET) thermoform plastic containers, and single-use plastic cups. Producers of these products must meet the annual minimum postconsumer recycled content on average for the total quantity of the products, by weight, that are sold, offered for sale, or distributed in or into Washington.

For polypropylene tubs, the requirements are as follows:

- January 1, 2026, through December 31, 2030—no less than ten percent postconsumer recycled content plastic by weight; and
- on and after January 1, 2031—no less than 30 percent postconsumer recycled content plastic by weight.

For PET thermoform container packaging for consumable goods, the requirements are:

- January 1, 2031, through December 31, 2035—no less than ten percent postconsumer recycled content plastic by weight; and
- on and after January 1, 2036—no less than 30 percent postconsumer recycled content plastic by weight.

For PET thermoform container packaging for durable goods, the requirements are:

- on and after January 1, 2036—no less than 30 percent postconsumer recycled content plastic by weight.

An exemption is provided for packaging designed to accompany a durable good where that durable good model is designed prior to the effective date of the requirement.

For polypropylene single-use plastic cups, the requirements are:

- January 1, 2029, through December 31, 2030—no less than 15 percent postconsumer recycled content plastic by weight; and
- on and after January 1, 2031—no less than 25 percent postconsumer recycled content plastic by weight.

For PET and polystyrene single-use plastic cups, the requirements are:

- January 1, 2029, through December 31, 2030—no less than 20 percent postconsumer recycled content plastic by weight; and
- on and after January 1, 2031—no less than 30 percent postconsumer recycled content plastic by weight.

Producers of the categories of products must comply with existing registration and reporting requirements for covered products subject to minimum recycled content standards.

Truth in Labeling. Beginning January 1, 2026, a producer may not offer for sale, sell, or distribute in or into Washington, including by means of remote sale, any covered product that makes a deceptive or misleading claim about its recyclability. A covered product that displays a chasing arrows symbol, a chasing arrows symbol surrounding a resin identification code, or any other symbol or statement indicating it is recyclable is deemed to be deceptive or misleading unless it is designated for collection in a PRO plan.

A label is not considered a misleading or deceptive claim of recyclability if:

- it is required by another state or by a federal law or agency at the time that the claim is made;
- it is part of a widely adopted and standardized third-party labeling system; or
- it uses a chasing arrows symbol in combination with a clearly visible line placed at a 45 degree angle over the chasing arrows symbol to convey that an item is not recyclable.

Beginning July 1, 2022, a city, town, or county may not enact an ordinance restricting the distribution or sale of covered products due to displaying a symbol or statement indicating it is recyclable if the covered product is, at the time the claim is made:

- designated for collection in a PRO plan;
- required to display the symbol or statement by another state or federal law or agency;
- part of a widely adopted and standardized third-party labeling system; or
- using a chasing arrows symbol with a line placed at a 45 degree angle.

Roll Carts. Beginning January 1, 2023, a manufacturer or person may only sell, offer for sale, or distribute for use in Washington plastic collection bins made from at least 25 percent postconsumer recycled content, including at least 10 percent derived from curbside recycling programs.

A person providing solid waste collection services may distribute plastic collection bins that were in use or in its inventory prior to January 1, 2023, until the end of the bins' useful lives. A person with an existing municipal contract for plastic collection bins that was in place prior to August 1, 2022, is exempt until the expiration or renewal date of the contract.

Local Solid Waste Management Plans. As part of the waste reduction and recycling element of comprehensive solid waste management plans, plans that are newly, developed, updated, or amended after July 1, 2026, may incorporate by reference the plans of PROs. If participating in a PRO plan as part of a contamination reduction and outreach plan, the PRO plan must be referenced.

EFFECT OF CHANGES MADE BY ENVIRONMENT, ENERGY &

TECHNOLOGY COMMITTEE (First Substitute):

- Revises references to brand holders as brand owners.
- Defines final disposition as the point at which a covered product becomes a reused material, becomes a recycled material, or is delivered to a disposal facility.
- Includes plastic beverage containers as its own category under the definition of material categories.
- Specifies that excluded packaging includes materials intended for long-term storage or protection that can be expected to be usable for at least 5 years.
- Excludes packaging materials regulated by the Federal Insecticide, Fungicide, and Rodenticide Act.
- Amends the definition of producer to include separate definitions for items sold at physical retail locations, items sold via remote sale, and types of paper products.
- Excludes retail establishments from the definition of public place.
- Provides that a producer is not required to join a PRO for any covered product if another person has joined a PRO and registered as the producer responsible for that covered product.
- Provides that PRO fees also go towards a reuse and recycling rates target study.
- Requires Ecology to review proposed reuse and recycling rate targets submitted by PROs.
- Removes Ecology duties related to reuse and recycling performance requirements.
- Directs that the statewide needs assessment be informed by the findings and recommendations of the reuse and recycling rate targets study and targets submitted by PROs and approved by Ecology; and that the assessment be accepted from the selected consultant as complete by Ecology.
- Requires the needs assessment to evaluate the availability and types of recycling services for covered products relative to additional potential service methods recommended by PROs during the study scoping process; and compile information related to costs for these service methods.
- Requires the needs assessment to identify cost factors and other variables to be considered in the development of base cost formulas for establishing per unit reimbursement rates to government agencies for curbside collection services, and for any services other than curbside collection that may be included in PRO plans.
- Requires the needs assessment to compile information on the presence of toxic substances in covered products and their potential impacts on reuse, recycling, and composting systems.
- At the request of the Renew Advisory Council, the Utilities and Transportation Commission (UTC), and registered PROs, allows Ecology to update the needs assessment to inform development of PRO plans.
- Requires the consultation process to include quarterly meetings with the Renew Advisory Council, consultation on base cost formulas for reimbursement rates and the service agreement template, and prudency review by the UTC of the base cost formulas for reimbursement.
- Directs PRO plans to include how the PRO will encourage and incentivize redesign

of covered products to be reusable, recyclable, or compostable; proposed reuse and recycling rate targets for covered products; and activities undertaken to meet the targets.

- Removes activities undertaken to ensure that covered products designated for collection do not contain toxic substances and activities to minimize toxicity of residuals from PRO plans.
- Requires PRO plans to include base cost formulas for reimbursement for curbside collection services with similar attributes and for other services included in the plan.
- Directs Ecology to conduct a reuse and recycling rate targets study within one year to inform the development of initial reuse and recycling rate targets to be proposed by PROs, including recommended targets.
- By September 1, 2023, requires any registered PRO to submit to Ecology proposed reuse and recycling rate targets for covered products to be achieved by the ninth calendar year from the effective date of the act, including an overall combined reuse and recycling rate, with a separate target for minimum reuse.
- Requires any PRO plan submitted to Ecology to include reuse and recycling rate targets for covered products to be achieved by the end of the plan implementation period, including an overall combined reuse and recycling rate, with a separate target for reuse, and a target combined reuse and recycling rate for each material category of covered products.
- Removes the reuse and recycling performance requirements.
- Directs a PRO to allow producers of covered products that are newspapers or magazines to satisfy their financial obligations by providing in-kind advertisement or publication.
- Removes provisions and references relating to establishing an objective method for reimbursement.
- Provides that a retailer may choose to serve as a drop-off location or as the site of a collection event through mutual agreement with a PRO, but that nothing in the act requires a retailer to serve as a drop-off location or site of a collection event.
- Establishes a new section covering the reimbursement provisions and provides that reimbursements be calculated using base cost formulas established in a PRO plan approved by Ecology.
- Provides that service agreements between PROs and government agencies are limited in scope to authorizing reimbursement of costs.
- Delays the recycled content requirements for PET thermoform plastic containers to 2031 for consumable goods and 2036 for durable goods.
- Specifies that the truth in labeling provisions apply to producers.
- Removes provision authorizing the UTC to review financial information of private recycling businesses that receive covered products.

Appropriation: None.

Fiscal Note: Available.

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

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

Staff Summary of Public Testimony on Proposed Substitute: *The committee recommended a different version of the bill than what was heard.* PRO: This bill builds on the work of thoughtful environmental advocates to come up with a better way to manage waste. It creates a truly circular economy and reduces waste. We want these companies to design more environmentally friendly packaging, and want to eliminate wish recycling and recycle products that are actually recyclable.

Extended producer responsibility (EPR) is one of the four priorities of the environmental priorities coalition. Its an effective approach that's been proven elsewhere in other states, the E.U., and Canada. The program has to be comprehensive if we're going to do it right. The bill has a climate change impact since it would reduce reliance on oil and gas used plastics and other materials that are put into the waste stream.

The word for this bill is supply, supply, supply. We have to fix the supply issue. The first goal is to reduce waste, and this is baked in, but supply means addressing design, education, and sorting. The goal is to have clean, high quality materials to be made back into new products.

There is a growing concern with marine plastic and debris polluting our oceans and Puget Sound. This bill will help reduce this litter in waterways. People don't throw stuff in the wrong bin because they want to, they do so because they're confused. Recycling shouldn't be this hard and this bill can help change that.

Local governments and haulers have taken recycling as far as it can go under the current system. We have stagnated and gone backwards in some areas due to rising costs, an ever-changing waste stream, and a lack of markets. There is currently no connection between decisions producers make and the costs that local governments and residents bear.

CON: Washington has some of the highest recycling rates in the nation. Producer funding may fund improvements but the system works well and is accountable. Customer rates approved by UTC and municipalities need to be protected and maintained. Producer costs will simply be embedded in consumer products. Being prescriptive on product design could impact consumer safety.

The state already does well in reusing and recycling product materials. We should only support EPR for products that don't have robust markets. In this case, it's problematic plastics. We don't want to upend the system for materials that already have robust end markets. The cost is borne 100 percent by producers as opposed to Oregon, which is much less. Producers of pesticides and fertilizers are already participating in nationwide programs.

Paper packaging is already approaching the maximum levels achievable. EPR is a cost shifting mechanism that will have little impact on recovery rates. The bill may cause innovative recycling practices to be abandoned. We are cautiously optimistic to how the packaging provisions identify requirements for durable products. If excluded, then this would be a different discussion.

Waste and recycling in Washington is a successful public private partnership with some of the best recycling rates in the nation. The relationships with customers and local governments must be maintained. Producers should play a role but cities and counties must retain control over their programs. Having to separate items covered by a PRO from those which aren't adds difficult to the recycling process.

The bill effectively imposes utility model regulations on materials recovery facility operators. We are part of the solution of recycling, not part of the problem. The bill does not establish infrastructure in time to support the proposed benchmarks. Newsprint is recovered at very high rates and we don't want to impose controls on a market that's already meeting high levels. The program does not consider extra lane miles and nautical miles that manufacturing and agriculture has to come. Washington environmental policy has been a disaster, selling the public nothing but flubber and magic beans.

OTHER: We appreciate the intent but are requesting that consumer electronic products be removed from the scope of this bill, as we don't want to impact established EPR programs for these products. There are concerns about takeback locations in public spaces. Previous court decisions have found grocery stores located in places with multiple stores may be considered a public place. Grocers don't want to be required to take back material because of this.

There is support for product stewardship but this is such a broad approach. We would prefer a narrower scope and would like to see how it works in the retail system. The program should include preemption for standards to be consistent throughout the state. Retailers would like the ability to sell existing stock and enough implementation time to put processes in to accommodate the new requirements.

There is support for covering all material types and the inclusion of the needs assessment. Ecology supports EPR concepts and EPR was the plastics study's top recommendation. The program would provide equitable recycling services across the state and bring producers to the table to improve recycling services. The hospitality industry is concerned over the sheer number of policies as we are already working on optional serviceware, the bag ban, hydrofluorocarbons, energy requirements, banning per- and polyflouroalkyl substances, recycling content, and others.

We would like to see more ability of a PRO to manage a system they will pay for, which is needed to achieve the extraordinary goal that is statutorily required. Producers need access

to recycled material, which helps promote circularity. Processers feel too much control of the system is given over to producers, as they are basically advisers to the panel. The glass industry has no guaranteed seat on the advisory board. Paint manufacturers have high existing recycling rates for existing stewardship programs and should be exempt.

The state needs to conduct a statewide needs assessment first before establishing requirements for the program. EPR programs do not always lead to success.

Persons Testifying: PRO: Senator Mona Das, Prime Sponsor; Paul Jewell, Washington State Association of Counties; Clifford Traisman, Washington Conservation Voters/Washington Environmental Council; Heather Trim, Zero Waste Washington; Alyssa Barton, Puget Soundkeeper Alliance; Manya Gupta, Juanita High School (Student); Carl Schroeder, Association of Washington Cities; Preston Peck, City of Tacoma; Pamela Clough, Environment Washington; Sara Holzknicht, Oceana; Nora Nickum, Seattle Aquarium; Pat McLaughlin, King County; Sego Jackson, City of Seattle/Seattle Public Utilities; Phillippa Kassover, City of Lake Forest Park, Member of King County Solid Waste Advisory Committee.

CON: Craig Smith, Food Northwest; Heather Hansen, Washington Friends of Farms & Forests; Rodd Pemble, SSC, Inc.; Erin Hall, American Forest & Paper Association; Jacob Cassidy, Association of Home Appliance Manufacturers (AHAM); Jody Snyder, Waste Connections; Becky Bogard, Republic Services; Dave Claugus, Pioneer Recycling Services; Vicki Christophersen, Washington Refuse and Recycling Association; Amber Carter, Novolex; Samantha Louderback, Washington Hospitality Association; Peter Godlewski, Association of Washington Business; Christopher Finarelli, The Household & Commercial Products Association (HCPA); Rowland Thompson, Allied Daily Newspapers of Washington; Tim Shestek, American Chemistry Council; Rowland Thompson, Wine Institute.

OTHER: Katie Reilly, Consumer Technology Association; John Chelminiak, Waste Management; Brad Boswell, Washington Beverage Association; Dan Felton, AMERIPEN; Neil Beaver, Recology; Holly Chisa, NW Grocery Association; Carolyn Logue, Washington Food Industry Association; Mark Johnson, Washington Retail Association; Kara Steward, WA Dept of Ecology; Marian Dacca, Glass Packaging Institute; Heidi McAuliffe, American Coatings Association.

Persons Signed In To Testify But Not Testifying: No one.