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ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1799

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State of Washington

67th Legislature

2022 Regular Session

By House Appropriations (originally sponsored by Representatives Fitzgibbon, Berry, Duerr, Riccelli, and Harris-Talley)

READ FIRST TIME 02/07/22.

1 AN ACT Relating to organic materials management; amending RCW  
2 70A.205.040, 70A.205.015, 69.80.031, 69.80.040, 89.08.615,  
3 43.155.020, 36.70.330, 39.30.040, 70A.455.010, 70A.455.020,  
4 70A.455.040, 70A.455.050, 70A.455.060, 70A.455.070, 70A.455.080,  
5 70A.455.090, 70A.455.100, and 70A.455.030; reenacting and amending  
6 RCW 43.21B.110 and 43.21B.300; adding new sections to chapter 70A.205  
7 RCW; adding a new section to chapter 43.21C RCW; adding a new section  
8 to chapter 15.04 RCW; adding a new section to chapter 36.70A RCW;  
9 adding a new section to chapter 35.63 RCW; adding a new section to  
10 chapter 35A.63 RCW; adding new sections to chapter 43.19A RCW; adding  
11 a new section to chapter 70A.455 RCW; adding a new chapter to Title  
12 70A RCW; creating new sections; repealing RCW 70A.455.110 and  
13 70A.455.900; and prescribing penalties.

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

15 NEW SECTION. **Sec. 1.** (1) The legislature finds that landfills  
16 are a significant source of emissions of methane, a potent greenhouse  
17 gas. Among other economic and environmental benefits, the diversion  
18 of organic materials to productive uses will reduce methane  
19 emissions.

20 (2) In order to reduce methane emissions associated with organic  
21 materials, the legislature finds that it will be beneficial to

1 improve a variety of aspects of how organic materials and organic  
2 material wastes are reduced, managed, incentivized, and regulated  
3 under state law. Therefore, it is the intent of the legislature to  
4 support the diversion of organic materials from landfills through a  
5 variety of interventions to support productive uses of organic  
6 material wastes, including by:

7 (a) Requiring some local governments to begin providing separated  
8 organic material collection services within their jurisdictions in  
9 order to increase volumes of organic materials collected and  
10 delivered to composting and other organic material management  
11 facilities and reduce the volumes of organic materials collected in  
12 conjunction with other solid waste and delivered to landfills;

13 (b) Requiring local governments to consider state organic  
14 material management goals and requirements in the development of  
15 their local solid waste plans;

16 (c) Requiring some businesses to manage their organic material  
17 wastes in a manner that does not involve landfilling them, in order  
18 to address one significant source of organic materials that currently  
19 frequently end up in landfills;

20 (d) Reducing legal liability risk barriers to the donation of  
21 edible food in order to encourage the recovery of foods that might  
22 otherwise be landfilled;

23 (e) Establishing the Washington center for sustainable food  
24 management within the department of ecology in order to coordinate  
25 and improve statewide food waste reduction and diversion efforts;

26 (f) Establishing various new funding and financial incentives  
27 intended to increase composting and other forms of productive organic  
28 materials management, helping to make the responsible management of  
29 organic materials more cost-competitive with landfilling of organic  
30 material wastes;

31 (g) Facilitating the siting of organic material management  
32 facilities in order to ensure that adequate capacity exists to  
33 process organic materials at the volumes necessary to achieve state  
34 organic material diversion goals;

35 (h) Encouraging cities and counties to procure more of the  
36 compost and finished products created from their organic material  
37 wastes in order to support the economic viability of processes to  
38 turn organic materials into finished products, and increasing the  
39 likelihood that composting and other responsible organic material  
40 management options are economically viable; and

1 (i) Amending standards related to the labeling of plastic and  
2 compostable products in order to reduce contamination of the waste  
3 streams handled by compost and organic material management facilities  
4 and improve the economic viability of those responsible organic  
5 material management options.

6 **PART 1**

7 **State Targets and Organic Material Waste Collection Requirements**

8 NEW SECTION. **Sec. 101.** A new section is added to chapter  
9 70A.205 RCW to read as follows:

10 (1)(a) The state establishes a goal for the landfill disposal of  
11 organic materials at a level representing a 75 percent reduction by  
12 2030 in the statewide disposal of organic material waste, relative to  
13 2015 levels.

14 (b) The state establishes a goal that no less than 20 percent of  
15 the volume of edible food that was disposed of as of 2015 be  
16 recovered for human consumption by 2025.

17 (2) The provisions of subsection (1) of this section are in  
18 addition to the food waste reduction goals of RCW 70A.205.715(1).

19 NEW SECTION. **Sec. 102.** A new section is added to chapter  
20 70A.205 RCW to read as follows:

21 (1) Beginning January 1, 2027, in each jurisdiction that  
22 implements a local solid waste plan under RCW 70A.205.040:

23 (a) Source-separated organic solid waste collection services must  
24 be provided at least every other week or at least 26 weeks annually  
25 to:

26 (i) All residents; and

27 (ii) Nonresidential customers that generate more than .25 cubic  
28 yard per week of organic materials for management; and

29 (b) All organic solid waste collected from residents and  
30 businesses under (a) of this subsection must be managed through  
31 organic materials management.

32 (2) A jurisdiction may charge and collect fees or rates for the  
33 services provided under subsection (1) of this section, consistent  
34 with the jurisdiction's authority to impose fees and rates under  
35 chapters 35.21, 35A.21, 36.58, and 36.58A RCW.

1 (3) (a) Except as provided in (d) of this subsection, the  
2 requirements of this section do not apply in a jurisdiction if the  
3 department determines that the following apply:

4 (i) The jurisdiction disposed of less than 5,000 tons of solid  
5 waste in the most recent year for which data is available; or

6 (ii) The jurisdiction has a total population of less than 25,000  
7 people.

8 (b) The requirements of this section do not apply:

9 (i) In census tracts that have a population density of less than  
10 75 people per square mile that are serviced by the jurisdiction and  
11 located in unincorporated portions of a county, as determined by the  
12 department, in counties not planning under chapter 36.70A RCW; and

13 (ii) Outside of urban growth areas designated pursuant to RCW  
14 36.70A.110 in unincorporated portions of a county planning under  
15 chapter 36.70A RCW.

16 (c) In addition to the exemptions in (a) and (b) of this  
17 subsection, the department may issue a renewable waiver to  
18 jurisdictions or portions of a jurisdiction under this subsection for  
19 up to five years, based on consideration of factors including the  
20 distance to organic materials management facilities, the sufficiency  
21 of the capacity to manage organic materials at facilities to which  
22 organic materials could feasibly and economically be delivered from  
23 the jurisdiction, and restrictions in the transport of organic  
24 materials under chapter 17.24 RCW. The department may adopt rules to  
25 specify the type of information that a waiver applicant must submit  
26 to the department and to specify the department's process for  
27 reviewing and approving waiver applications.

28 (d) Beginning January 1, 2030, the department may adopt a rule to  
29 require that the provisions of this section apply in the  
30 jurisdictions identified in (b) and (c) of this subsection, but only  
31 if the department determines that the goals established in section  
32 101(1) of this act have not or will not be achieved.

33 (4) Any city that newly begins implementing an independent solid  
34 waste plan under RCW 70A.205.040 after July 1, 2022, must meet the  
35 requirements of subsection (1) of this section.

36 **Sec. 103.** RCW 70A.205.040 and 2010 c 154 s 2 are each amended to  
37 read as follows:

38 (1) Each county within the state, in cooperation with the various  
39 cities located within such county, shall prepare a coordinated,

1 comprehensive solid waste management plan. Such plan may cover two or  
2 more counties. The purpose is to plan for solid waste and materials  
3 reduction, collection, and handling and management services and  
4 programs throughout the state, as designed to meet the unique needs  
5 of each county and city in the state. When updating a solid waste  
6 management plan developed under this chapter, after June 10, 2010,  
7 local comprehensive plans must consider and plan for the following  
8 handling methods or services:

9 (a) Source separation of recyclable materials and products,  
10 organic materials, and wastes by generators;

11 (b) Collection of source separated materials;

12 (c) Handling and proper preparation of materials for reuse or  
13 recycling;

14 (d) Handling and proper preparation of organic materials for  
15 (~~composting or anaerobic digestion~~) organic materials management;  
16 and

17 (e) Handling and proper disposal of nonrecyclable wastes.

18 (2) When updating a solid waste management plan developed under  
19 this chapter, after June 10, 2010, each local comprehensive plan  
20 must, at a minimum, consider methods that will be used to address the  
21 following:

22 (a) Construction and demolition waste for recycling or reuse;

23 (b) Organic material including yard debris, food waste, and food  
24 contaminated paper products for (~~composting or anaerobic digestion~~)  
25 organic materials management;

26 (c) Recoverable paper products for recycling;

27 (d) Metals, glass, and plastics for recycling; and

28 (e) Waste reduction strategies.

29 (3) (a) When newly developing, updating, or amending a solid waste  
30 management plan developed under this chapter, after July 1, 2024,  
31 each local comprehensive plan must consider the transition to the  
32 requirements of section 102 of this act, and each comprehensive plan  
33 implemented by a county must identify:

34 (i) The priority areas within the county for the establishment of  
35 organic materials management facilities. Priority areas must be in  
36 industrial zones, agricultural zones, or rural zones, and may not be  
37 located in overburdened communities identified by the department of  
38 ecology under RCW 70A.65.020(1). Priority areas should be designated  
39 with an attempt to minimize incompatible uses and potential impacts  
40 on residential areas; and

1 (ii) Organic materials management facility volumetric capacity  
2 required to manage the county's organic materials in a manner  
3 consistent with the goals of section 101 of this act.

4 (b) When newly developing, updating, or amending a solid waste  
5 management plan developed under this chapter, after January 1, 2027,  
6 each local comprehensive plan must be consistent with the  
7 requirements of section 102 of this act.

8 (4) Each city shall:

9 (a) Prepare and deliver to the county auditor of the county in  
10 which it is located its plan for its own solid waste management for  
11 integration into the comprehensive county plan;

12 (b) Enter into an agreement with the county pursuant to which the  
13 city shall participate in preparing a joint city-county plan for  
14 solid waste management; or

15 (c) Authorize the county to prepare a plan for the city's solid  
16 waste management for inclusion in the comprehensive county plan.

17 ~~((4))~~ (5) Two or more cities may prepare a plan for inclusion  
18 in the county plan. With prior notification of its home county of its  
19 intent, a city in one county may enter into an agreement with a city  
20 in an adjoining county, or with an adjoining county, or both, to  
21 prepare a joint plan for solid waste management to become part of the  
22 comprehensive plan of both counties.

23 ~~((5))~~ (6) After consultation with representatives of the cities  
24 and counties, the department shall establish a schedule for the  
25 development of the comprehensive plans for solid waste management. In  
26 preparing such a schedule, the department shall take into account the  
27 probable cost of such plans to the cities and counties.

28 ~~((6))~~ (7) Local governments shall not be required to include a  
29 hazardous waste element in their solid waste management plans.

30 NEW SECTION. Sec. 104. (1) The department of ecology must  
31 contract with a third-party consultant to conduct a study of the  
32 adequacy of local government solid waste management funding,  
33 including options and recommendations to provide funding for solid  
34 waste programs in the future if significant statewide policy changes  
35 are enacted. The department must include the Washington association  
36 of county solid waste managers, the association of Washington cities,  
37 an association that represents the private sector solid waste  
38 industry, and other stakeholders in scoping the study and reviewing

1 the consultant's findings and recommendations prior to submittal to  
2 the legislature.

3 (2) The study must include:

4 (a) Consideration for jurisdictional type, location, size,  
5 service level, and other relevant differences between cities and  
6 counties;

7 (b) A review and update of current funding types and levels  
8 available, and their rate of adoption;

9 (c) The funding needs to implement the solid waste core services  
10 model developed by the Washington association of county solid waste  
11 managers;

12 (d) Alternative funding models utilized by other publicly managed  
13 solid waste programs in other states or countries that may be  
14 relevant to Washington; and

15 (e) An evaluation of the impacts on solid waste funding resources  
16 available to cities and counties from statewide solid waste  
17 management policy proposals considered by the legislature or enacted  
18 in the last four years, including proposals to:

19 (i) Reduce the quantity of organic waste to landfills;

20 (ii) Manage packaging and paper products through extended  
21 producer responsibility programs;

22 (iii) Manage other products through product stewardship or  
23 extended producer responsibility programs;

24 (iv) Improve or install new or updated methane capture systems;

25 (v) Increase postconsumer content requirements for materials  
26 collected in solid waste programs; and

27 (vi) Other related proposals that may impact solid waste funding  
28 resources.

29 (3) The study must evaluate a range of forecasted fiscal impacts  
30 for each type of policy change on local government solid waste  
31 management programs, including:

32 (a) The level of service provided by local government;

33 (b) Costs to the local government;

34 (c) Existing revenue levels; and

35 (d) The need for additional revenue.

36 (4) The department must submit the report, including findings and  
37 any recommendations, to the appropriate committees of the legislature  
38 by July 1, 2023.

1       **Sec. 105.** RCW 70A.205.015 and 2020 c 20 s 1161 are each amended  
2 to read as follows:

3       (~~As used in this chapter, unless the context indicates~~  
4 ~~otherwise~~.) The definitions in this section apply throughout this  
5 chapter unless the context clearly requires otherwise.

6       (1) "City" means every incorporated city and town.

7       (2) "Commission" means the utilities and transportation  
8 commission.

9       (3) "Composted material" means organic solid waste that has been  
10 subjected to controlled aerobic degradation at a solid waste facility  
11 in compliance with the requirements of this chapter. Natural decay of  
12 organic solid waste under uncontrolled conditions does not result in  
13 composted material.

14       (4) "Department" means the department of ecology.

15       (5) "Director" means the director of the department of ecology.

16       (6) "Disposal site" means the location where any final treatment,  
17 utilization, processing, or deposit of solid waste occurs.

18       (7) "Energy recovery" means a process operating under federal and  
19 state environmental laws and regulations for converting solid waste  
20 into usable energy and for reducing the volume of solid waste.

21       (8) "Functional standards" means criteria for solid waste  
22 handling expressed in terms of expected performance or solid waste  
23 handling functions.

24       (9) "Incineration" means a process of reducing the volume of  
25 solid waste operating under federal and state environmental laws and  
26 regulations by use of an enclosed device using controlled flame  
27 combustion.

28       (10) "Inert waste landfill" means a landfill that receives only  
29 inert waste, as determined under RCW 70A.205.030, and includes  
30 facilities that use inert wastes as a component of fill.

31       (11) "Jurisdictional health department" means city, county, city-  
32 county, or district public health department.

33       (12) "Landfill" means a disposal facility or part of a facility  
34 at which solid waste is placed in or on land and which is not a land  
35 treatment facility.

36       (13) "Local government" means a city, town, or county.

37       (14) "Modify" means to substantially change the design or  
38 operational plans including, but not limited to, removal of a design  
39 element previously set forth in a permit application or the addition



1 of a disposal or processing activity that is not approved in the  
2 permit.

3 (15) "Multiple-family residence" means any structure housing two  
4 or more dwelling units.

5 (16) "Person" means individual, firm, association, copartnership,  
6 political subdivision, government agency, municipality, industry,  
7 public or private corporation, or any other entity whatsoever.

8 (17) "Recyclable materials" means those solid wastes that are  
9 separated for recycling or reuse, such as papers, metals, and glass,  
10 that are identified as recyclable material pursuant to a local  
11 comprehensive solid waste plan. Prior to the adoption of the local  
12 comprehensive solid waste plan, adopted pursuant to RCW  
13 70A.205.075(2), local governments may identify recyclable materials  
14 by ordinance from July 23, 1989.

15 (18) "Recycling" means transforming or remanufacturing waste  
16 materials into usable or marketable materials for use other than  
17 landfill disposal or incineration.

18 (19) "Residence" means the regular dwelling place of an  
19 individual or individuals.

20 (20) "Sewage sludge" means a semisolid substance consisting of  
21 settled sewage solids combined with varying amounts of water and  
22 dissolved materials, generated from a wastewater treatment system,  
23 that does not meet the requirements of chapter 70A.226 RCW.

24 (21) "Soil amendment" means any substance that is intended to  
25 improve the physical characteristics of the soil, except composted  
26 material, commercial fertilizers, agricultural liming agents,  
27 unmanipulated animal manures, unmanipulated vegetable manures, food  
28 wastes, food processing wastes, and materials exempted by rule of the  
29 department, such as biosolids as defined in chapter 70A.226 RCW and  
30 wastewater as regulated in chapter 90.48 RCW.

31 (22) "Solid waste" or "wastes" means all putrescible and  
32 nonputrescible solid and semisolid wastes including, but not limited  
33 to, garbage, rubbish, ashes, industrial wastes, swill, sewage sludge,  
34 demolition and construction wastes, abandoned vehicles or parts  
35 thereof, and recyclable materials.

36 (23) "Solid waste handling" means the management, storage,  
37 collection, transportation, treatment, utilization, processing, and  
38 final disposal of solid wastes, including the recovery and recycling  
39 of materials from solid wastes, the recovery of energy resources from

1 solid wastes or the conversion of the energy in solid wastes to more  
2 useful forms or combinations thereof.

3 (24) "Source separation" means the separation of different kinds  
4 of solid waste at the place where the waste originates.

5 (25) "Vehicle" includes every device physically capable of being  
6 moved upon a public or private highway, road, street, or watercourse  
7 and in, upon, or by which any person or property is or may be  
8 transported or drawn upon a public or private highway, road, street,  
9 or watercourse, except devices moved by human or animal power or used  
10 exclusively upon stationary rails or tracks.

11 (26) "Waste-derived soil amendment" means any soil amendment as  
12 defined in this chapter that is derived from solid waste as defined  
13 in this section, but does not include biosolids or biosolids products  
14 regulated under chapter 70A.226 RCW or wastewaters regulated under  
15 chapter 90.48 RCW.

16 (27) "Waste reduction" means reducing the amount or toxicity of  
17 waste generated or reusing materials.

18 (28) "Yard debris" means plant material commonly created in the  
19 course of maintaining yards and gardens, and through horticulture,  
20 gardening, landscaping, or similar activities. Yard debris includes  
21 but is not limited to grass clippings, leaves, branches, brush,  
22 weeds, flowers, roots, windfall fruit, vegetable garden debris,  
23 holiday trees, and tree prunings four inches or less in diameter.

24 (29) (a) (i) "Organic materials" means any solid waste that is a  
25 biological substance of plant or animal origin capable of microbial  
26 degradation.

27 (ii) Organic materials include, but are not limited to, manure,  
28 yard debris, food waste, food processing waste, wood waste, and  
29 garden waste.

30 (b) "Organic materials" does not include any materials  
31 contaminated by herbicides, pesticides, pests, or other sources of  
32 chemical or biological contamination that would render a finished  
33 product of an organic material management process unsuitable for  
34 general public or agricultural use.

35 (30) "Organic materials management" means management of organic  
36 materials through composting, anaerobic digestion, vermiculture,  
37 black soldier fly, or similar technologies.

38 **PART 2**

39 **Requirements for Organics Management by Businesses**

1        NEW SECTION.        **Sec. 201.**        A new section is added to chapter  
2 70A.205 RCW to read as follows:

3        (1) (a) Beginning July 1, 2023, and each July 1st thereafter, the  
4 department must determine which counties and any cities preparing  
5 independent solid waste management plans:

6        (i) Provide for businesses to be serviced by providers that  
7 collect food waste and organic material waste for delivery to solid  
8 waste facilities that provide for the organic materials management of  
9 organic material waste and food waste; and

10        (ii) Are serviced by solid waste facilities that provide for the  
11 organic materials management of organic material waste and food waste  
12 and have capacity to accept increased volumes of organic materials  
13 deliveries.

14        (b) (i) The department must determine and designate that the  
15 restrictions of this section apply to businesses in a jurisdiction  
16 unless the department determines that the businesses in some or all  
17 portions of the city or county have:

18        (A) No available businesses that collect and deliver organic  
19 materials to solid waste facilities that provide for the organic  
20 materials management of organic material waste and food waste; or

21        (B) No available capacity at the solid waste facilities to which  
22 businesses that collect and deliver organic materials could feasibly  
23 and economically deliver organic materials from the jurisdiction.

24        (ii) (A) In the event that a county or city provides written  
25 notification to the department indicating that the criteria of  
26 (b) (i) (A) of this subsection are met, then the restrictions of this  
27 section apply only in those portions of the jurisdiction that have  
28 available service-providing businesses.

29        (B) In the event that a county or city provides written  
30 notification to the department indicating that the criteria of  
31 (b) (i) (B) of this subsection are met, then the restrictions of this  
32 section do not apply to the jurisdiction.

33        (c) The department must make the result of the annual  
34 determinations required under this section available on its website.

35        (d) The requirements of this section may be enforced by  
36 jurisdictional health departments consistent with this chapter,  
37 except that:

38        (i) A jurisdictional health department may not charge a fee to  
39 permit holders to cover the costs of the jurisdictional health

1 department's administration or enforcement of the requirements of  
2 this section; and

3 (ii) Prior to issuing a penalty under this section, a  
4 jurisdictional health department must provide at least two written  
5 notices of noncompliance with the requirements of this section to the  
6 owner or operator of a business subject to the requirements of this  
7 section.

8 (2) Wastes that are not managed on-site by the generating  
9 business, wastes generated from the growth and harvest of food or  
10 fiber that are managed off-site by another business engaged in the  
11 growth and harvest of food or fiber, and wastes generated in  
12 exceptional volumes as a result of a natural disaster or other  
13 infrequent and unpreventable event, do not count for purposes of  
14 determining waste volumes in (a) through (c) of this subsection.

15 (a) Beginning January 1, 2024, a business that generates at least  
16 eight cubic yards of organic material waste per week must arrange for  
17 organic materials management services specifically for organic  
18 material waste;

19 (b) Beginning January 1, 2025, a business that generates at least  
20 four cubic yards of organic material waste per week must arrange for  
21 organic materials management services specifically for organic  
22 material waste; and

23 (c) Beginning January 1, 2026, a business that generates at least  
24 four cubic yards of solid waste per week shall arrange for organic  
25 materials management services specifically for organic material  
26 waste, unless the department determines, by rule, that additional  
27 reductions in the landfilling of organic materials would be more  
28 appropriately and effectively achieved, at reasonable cost to  
29 regulated businesses, through the establishment of a different  
30 volumetric threshold of solid waste or organic material waste than  
31 the threshold of four cubic yards of solid waste per week.

32 (3) A business may fulfill the requirements of this section by:

33 (a) Source separating organic material waste from other waste,  
34 subscribing to a service that includes organic material waste  
35 collection and organic materials management, and using such a service  
36 for organic material waste generated by the business;

37 (b) Managing its organic material waste on-site or self-hauling  
38 its own organic material waste for organic materials management;

39 (c) Qualifying for exclusion from the requirements of this  
40 section consistent with subsection (1)(b) of this section.

1 (4) (a) A business generating organic material waste shall arrange  
2 for any services required by this section in a manner that is  
3 consistent with state and local laws and requirements applicable to  
4 the collection, handling, or recycling of solid and organic material  
5 waste.

6 (b) Nothing in this section requires a business to dispose of  
7 materials in a manner that conflicts with federal or state public  
8 health or safety requirements. Nothing in this section requires  
9 businesses to dispose of wastes generated in exceptional volumes as a  
10 result of a natural disaster or other infrequent and unpreventable  
11 event through the options established in subsection (3) of this  
12 section.

13 (5) When arranging for gardening or landscaping services, the  
14 contract or work agreement between a business subject to this section  
15 and a gardening or landscaping service must require that the organic  
16 material waste generated by those services be managed in compliance  
17 with this chapter.

18 (6) (a) This section does not limit the authority of a local  
19 governmental agency to adopt, implement, or enforce a local organic  
20 material waste recycling requirement, or a condition imposed upon a  
21 self-hauler, that is more stringent or comprehensive than the  
22 requirements of this chapter.

23 (b) This section does not modify, limit, or abrogate in any  
24 manner any of the following:

25 (i) A franchise granted or extended by a city, county, city and  
26 county, or other local governmental agency;

27 (ii) A contract, license, certificate, or permit to collect solid  
28 waste previously granted or extended by a city, county, city and  
29 county, or other local governmental agency;

30 (iii) The right of a business to sell or donate its organic  
31 materials; and

32 (iv) A certificate of convenience and necessity issued to a solid  
33 waste collection company under chapter 81.77 RCW.

34 (c) Nothing in this section modifies, limits, or abrogates the  
35 authority of a local jurisdiction with respect to land use, zoning,  
36 or facility siting decisions by or within that local jurisdiction.

37 (d) Nothing in this section changes or limits the authority of  
38 the Washington utilities and transportation commission to regulate  
39 collection of solid waste, including curbside collection of  
40 residential recyclable materials, nor does this section change or

1 limit the authority of a city or town to provide the service itself  
2 or by contract under RCW 81.77.020.

3 (7) The definitions in this subsection apply throughout this  
4 section unless the context clearly indicates otherwise.

5 (a)(i) "Business" means a commercial or public entity including,  
6 but not limited to, a firm, partnership, proprietorship, joint stock  
7 company, corporation, or association that is organized as a for-  
8 profit or nonprofit entity.

9 (ii) "Business" does not include a multifamily residential  
10 entity.

11 (b) "Food waste" has the same meaning as defined in RCW  
12 70A.205.715.

### 13 PART 3

#### 14 Updates to the Washington Good Samaritan Act

15 **Sec. 301.** RCW 69.80.031 and 1994 c 299 s 36 are each amended to  
16 read as follows:

17 (1) This section may be cited as the "good samaritan food  
18 donation act."

19 (2) (~~(As used in this section:)~~) The definitions in this  
20 subsection apply throughout this section unless the context clearly  
21 requires otherwise.

22 (a) "Apparently fit grocery product" means a grocery product that  
23 meets (~~(all quality and)~~) safety and safety-related labeling  
24 standards imposed by federal, state, and local laws and regulations  
25 even though the product may not be readily marketable due to  
26 appearance, age, freshness, grade, size, surplus, passage of a date  
27 on a date label other than a safety or safety-related labeling of a  
28 date, or other conditions.

29 (b) "Apparently wholesome food" means food that meets (~~(all~~  
30 ~~quality and)~~) safety and safety-related labeling standards imposed by  
31 federal, state, and local laws and regulations even though the food  
32 may not be readily marketable due to appearance, age, freshness,  
33 grade, size, surplus, passage of a date on a date label other than a  
34 safety or safety-related labeling of a date, or other conditions.

35 (c) "Donate" means to give without requiring anything of monetary  
36 value from the recipient, except that the term shall include giving  
37 by a nonprofit organization to another nonprofit organization,  
38 notwithstanding that the donor organization has charged a nominal fee

1 to the donee organization, if the ultimate recipient or user is not  
2 required to give anything of monetary value or is charged only a good  
3 samaritan reduced price.

4 (d) "Food" means a raw, cooked, processed, or prepared edible  
5 substance, ice, beverage, or ingredient used or intended for use in  
6 whole or in part for human consumption.

7 (e) "Gleaner" means a person who harvests for free distribution  
8 to the needy, or for donation to a nonprofit organization for  
9 ultimate distribution to the needy, an agricultural crop that has  
10 been donated by the owner.

11 (f) "Good samaritan reduced price" means the price of an  
12 apparently wholesome food or an apparently fit grocery product that  
13 is an amount not greater than the cost of handling, administering,  
14 and distributing the apparently wholesome food or apparently fit  
15 grocery product.

16 (g) "Grocery product" means a nonfood grocery product, including  
17 a disposable paper or plastic product, household cleaning product,  
18 laundry detergent, cleaning product, or miscellaneous household item.

19 ~~((g))~~ (h) "Gross negligence" means voluntary and conscious  
20 conduct by a person with knowledge, at the time of the conduct, that  
21 the conduct is likely to be harmful to the health or well-being of  
22 another person.

23 ~~((h))~~ (i) "Intentional misconduct" means conduct by a person  
24 with knowledge, at the time of the conduct, that the conduct is  
25 harmful to the health or well-being of another person.

26 ~~((i))~~ (j) "Nonprofit organization" means an incorporated or  
27 unincorporated entity that:

28 (i) Is operating for religious, charitable, or educational  
29 purposes; and

30 (ii) Does not provide net earnings to, or operate in any other  
31 manner that inures to the benefit of, any officer, employee, or  
32 shareholder of the entity.

33 ~~((j))~~ (k) "Person" means an individual, corporation,  
34 partnership, organization, association, or governmental entity,  
35 including a retail grocer, wholesaler, hotel, motel, manufacturer,  
36 restaurant, caterer, farmer, and nonprofit food distributor or  
37 hospital. In the case of a corporation, partnership, organization,  
38 association, or governmental entity, the term includes an officer,  
39 director, partner, deacon, trustee, councilmember, or other elected  
40 or appointed individual responsible for the governance of the entity.

1 (l) "Qualified direct donor" means any person required to obtain  
2 a food establishment permit under chapter 246-215 WAC, as it existed  
3 as of January 1, 2022, including a retail grocer, wholesaler,  
4 agricultural producer, restaurant, caterer, school food authority, or  
5 institution of higher education as defined in RCW 28B.10.016.

6 (m) (i) "Safety and safety-related labeling" means a marking  
7 intended to communicate information to a consumer related to a food  
8 product's safety. "Safety and safety-related labeling" includes any  
9 marking that federal or state law requires to be affixed to a food  
10 product including, but not limited to, markings placed on infant  
11 formula consistent with 21 C.F.R. Sec. 107.20, as that regulation  
12 existed as of January 1, 2021.

13 (ii) "Safety and safety-related labeling" does not include a pull  
14 date required to be placed on perishable packaged food under RCW  
15 15.130.300 or a "best by," "best if used by," "use by," or "sell by"  
16 date or similarly phrased date intended to communicate information to  
17 a consumer regarding the freshness or quality of a food product.

18 (3) (a) A person or gleaner is not subject to civil or criminal  
19 liability arising from the nature, age, packaging, or condition of  
20 apparently wholesome food or an apparently fit grocery product that  
21 the person or gleaner donates in good faith or sells at a good  
22 samaritan reduced price to a nonprofit organization for ultimate sale  
23 at a good samaritan reduced price, donation, or other distribution to  
24 needy individuals, except that this subsection does not apply to an  
25 injury to or death of an ultimate user or recipient of the food or  
26 grocery product that results from an act or omission of the donor  
27 constituting gross negligence or intentional misconduct.

28 (b) A qualified direct donor may donate food directly to end  
29 recipients for consumption. A qualified direct donor is not subject  
30 to civil or criminal liability arising from the nature, age,  
31 packaging, or condition of apparently wholesome food or an apparently  
32 fit grocery product that the qualified direct donor donates in good  
33 faith or sells at a good samaritan reduced price to a needy  
34 individual. The donation of nonperishable food that is fit for human  
35 consumption, but that has exceeded the labeled shelf-life date  
36 recommended by the manufacturer, is an activity covered by the  
37 exclusion from civil or criminal liability under this section.

38 (c) The donation of perishable food that is fit for human  
39 consumption, but that has exceeded the labeled shelf-life date  
40 recommended by the manufacturer, is an activity covered by the



1 exclusion from civil or criminal liability under this section if the  
2 person that distributes the food to the end recipient makes a good  
3 faith evaluation that the food to be donated is wholesome.

4 (4) A person who allows the collection or gleaning of donations  
5 on property owned or occupied by the person by gleaners, or paid or  
6 unpaid representatives of a nonprofit organization, for ultimate  
7 distribution to needy individuals is not subject to civil or criminal  
8 liability that arises due to the injury or death of the gleaner or  
9 representative, except that this subsection does not apply to an  
10 injury or death that results from an act or omission of the person  
11 constituting gross negligence or intentional misconduct.

12 (5) If some or all of the donated food and grocery products do  
13 not meet ((~~all quality and~~)) safety and safety-related labeling  
14 standards imposed by federal, state, and local laws and regulations,  
15 the person or gleaner who donates the food and grocery products is  
16 not subject to civil or criminal liability in accordance with this  
17 section if the nonprofit organization or other end recipient that  
18 receives the donated food or grocery products:

19 (a) Is informed by the donor of the distressed or defective  
20 condition of the donated food or grocery products;

21 (b) Agrees to recondition the donated food or grocery products to  
22 comply with all the ((~~quality and~~)) safety and safety-related  
23 labeling standards prior to distribution; and

24 (c) Is knowledgeable of the standards to properly recondition the  
25 donated food or grocery product.

26 (6) This section may not be construed to create liability.

#### 27 **PART 4**

#### 28 **Washington Center for Sustainable Food Management**

29 NEW SECTION. **Sec. 401.** The definitions in this section apply  
30 throughout this chapter unless the context clearly requires  
31 otherwise.

32 (1) "Center" means the Washington center for sustainable food  
33 management.

34 (2) "Department" means the department of ecology.

35 (3) "Organic material" has the same definition as provided in RCW  
36 70A.205.015.

37 (4) "Plan" means the use food well Washington plan developed  
38 under RCW 70A.205.715.

1        NEW SECTION.        **Sec. 402.**        (1) The Washington center for  
2 sustainable food management is established within the department, to  
3 begin operations by January 1, 2024.

4        (2) The purpose of the center is to help coordinate statewide  
5 food waste reduction.

6        (3) The center may perform the following activities:

7        (a) Coordinate the implementation of the plan;

8        (b) Draft plan updates and measure progress towards actions,  
9 strategies, and the statewide goals established in section 101 of  
10 this act and RCW 70A.205.715(1);

11       (c) Maintain a website with current food waste reduction  
12 information and guidance for food service establishments, consumers,  
13 food processors, hunger relief organizations, and other sources of  
14 food waste;

15       (d) Provide staff support to multistate food waste reduction  
16 initiatives in which the state is participating;

17       (e) Maintain the consistency of the plan and other food waste  
18 reduction activities with the work of the Washington state  
19 conservation commission's food policy forum;

20       (f) Facilitate and coordinate public-private and nonprofit  
21 partnerships focused on food waste reduction, including through  
22 voluntary working groups;

23       (g) Collaborate with federal, state, and local government  
24 partners on food waste reduction initiatives;

25       (h) Develop and maintain maps or lists of locations of the food  
26 systems of Washington that identify food flows, where waste occurs,  
27 and opportunities to prevent food waste;

28       (i)(i) Collect and maintain data on food waste and wasted food in  
29 a manner that is generally consistent with the methods of collecting  
30 and maintaining such data used by federal agencies or in other  
31 jurisdictions, or both, to the greatest extent practicable;

32       (ii) Develop measurement methodologies and tools to uniformly  
33 track food donation data, food waste prevention data, and associated  
34 climate impacts resultant from food waste reduction efforts;

35       (j) Research and develop emerging organic materials and food  
36 waste reduction markets;

37       (k)(i) Develop and maintain statewide food waste reduction and  
38 food waste contamination reduction campaigns, in consultation with  
39 other state agencies and other stakeholders, including the  
40 development of waste prevention and food waste recovery promotional

1 materials for distribution. These promotional materials may include  
2 online information, newsletters, bulletins, or handouts that inform  
3 food service establishment operators about the protections from civil  
4 and criminal liability under federal law and under RCW 69.80.031 when  
5 donating food; and

6 (ii) Develop guidance to support the distribution of promotional  
7 materials, including distribution by:

8 (A) Local health officers, at no cost to regulated food service  
9 establishments, including as part of normal, routine inspections of  
10 food service establishments; and

11 (B) State agencies, including the department of health and the  
12 department of agriculture, in conjunction with their statutory roles  
13 and responsibilities in regulating, monitoring, and supporting safe  
14 food supply chains and systems;

15 (l) Distribute and monitor grants dedicated to food waste  
16 prevention, rescue, and recovery; and

17 (m) Research and provide education, outreach, and technical  
18 assistance to local governments in support of the adoption of solid  
19 waste ordinances or policies that establish a financial disincentive  
20 for the generation of organic waste and for the ultimate disposal of  
21 organic materials in landfills.

22 (4) The department may enter into an interagency agreement with  
23 the department of health, the department of agriculture, or other  
24 state agencies as necessary to fulfill the responsibilities of the  
25 center.

26 (5) The department may adopt any rules necessary to implement  
27 this chapter including, but not limited to, measures for the center's  
28 performance.

29 NEW SECTION. **Sec. 403.** A new section is added to chapter  
30 70A.205 RCW to read as follows:

31 (1) In order to obtain data as necessary to support the goals of  
32 the Washington center for sustainable food management created in  
33 section 402 of this act and to achieve the goals of RCW  
34 70A.205.715(1), the department may establish a voluntary reporting  
35 protocol for the receipt of reports by businesses that donate food  
36 under RCW 69.80.031 and recipients of the donated food, and may  
37 encourage the use of this voluntary reporting protocol by the  
38 businesses and recipients. The department may also request that a  
39 donating business or recipient of donated food provide information to

1 the department regarding the volumes, types, and timing of food  
2 managed by the donating facility or business, and food waste and  
3 wasted food generated by the donating facility or business. To the  
4 extent practicable, the department must seek to obtain information  
5 under this section in a manner compatible with any information  
6 reported to the department of agriculture under RCW 43.23.290, and in  
7 a manner that minimizes the reporting and information-provision  
8 burdens of donating businesses and recipients.

9 (2) For the purposes of this subsection, "food waste" and "wasted  
10 food" have the same meaning as defined in RCW 70A.205.715.

11 **Sec. 404.** RCW 69.80.040 and 1983 c 241 s 4 are each amended to  
12 read as follows:

13 The department of agriculture shall maintain an information and  
14 referral service for persons and organizations that have notified the  
15 department of their desire to participate in the food donation  
16 program under this chapter. The department must coordinate with the  
17 department of ecology to ensure that the information and referral  
18 service required under this section is implemented in a manner  
19 consistent with the activities of sections 402 and 403 of this act.

20 NEW SECTION. **Sec. 405.** (1) By January 1, 2025, and in  
21 consultation with the office of the attorney general, the department  
22 must research and adopt several model ordinances for optional use by  
23 counties and cities that provide for model mechanisms for commercial  
24 solid waste collection and disposal that are designed, in part, to  
25 establish a financial disincentive or other disincentives for the  
26 generation of organic waste and for the ultimate disposal of organic  
27 materials in landfills. The model ordinances must be designed to  
28 provide options that might be preferred by jurisdictions of different  
29 sizes and consider other key criteria applicable to local solid waste  
30 management circumstances.

31 (2) (a) The department must review the model ordinances created in  
32 this section under the provisions of chapter 43.21C RCW.

33 (b) A county or city that adopts a model ordinance created by the  
34 department under this section and that has been reviewed by the  
35 department under the provisions of chapter 43.21C RCW is not required  
36 to review the ordinance under the provisions of chapter 43.21C RCW.

37 (3) No city, town, or county is required to adopt the model  
38 ordinances created in this section.

1 NEW SECTION. **Sec. 406.** A new section is added to chapter 43.21C  
2 RCW to read as follows:

3 Amendments to regulations and other nonproject actions taken by a  
4 city or county to adopt or implement the model ordinance created by  
5 the department under section 405 of this act is not subject to the  
6 requirements of this chapter.

7 **PART 5**  
8 **Funding and Incentives for Methane Emissions Reduction Activities**  
9 **Associated with Organic Materials Management**

10 **Sec. 501.** RCW 89.08.615 and 2020 c 351 s 3 are each amended to  
11 read as follows:

12 (1) The commission shall develop a sustainable farms and fields  
13 grant program in consultation with the department of agriculture,  
14 Washington State University, and the United States department of  
15 agriculture natural resources conservation service.

16 (2) As funding allows, the commission shall distribute funds, as  
17 appropriate, to conservation districts and other public entities to  
18 help implement the projects approved by the commission.

19 (3) No more than (~~fifteen~~) 15 percent of the funds may be used  
20 by the commission to develop, or to consult or contract with private  
21 or public entities, such as universities or conservation districts,  
22 to develop:

23 (a) An educational public awareness campaign and outreach about  
24 the sustainable farm and field program; or

25 (b) The grant program, including the production of analytical  
26 tools, measurement estimation and verification methods, cost-benefit  
27 measurements, and public reporting methods.

28 (4) No more than five percent of the funds may be used by the  
29 commission to cover the administrative costs of the program.

30 (5) No more than (~~twenty~~) 20 percent of the funds may be  
31 awarded to any single grant applicant.

32 (6) Allowable uses of grant funds include:

33 (a) Annual payments to enrolled participants for successfully  
34 delivered carbon storage or reduction;

35 (b) Up-front payments for contracted carbon storage;

36 (c) Down payments on equipment;

37 (d) Purchases of equipment;

1 (e) Purchase of seed, seedlings, spores, animal feed, and  
2 amendments;

3 (f) Services to landowners, such as the development of site-  
4 specific conservation plans to increase soil organic levels or to  
5 increase usage of precision agricultural practices, or design and  
6 implementation of best management practices to reduce livestock  
7 emissions; (~~and~~)

8 (g) The purchase of compost spreading equipment, or financial  
9 assistance to farmers to purchase compost spreading equipment, for  
10 the annual use for at least three years of volumes of compost  
11 determined by the commission to be significant from materials  
12 composted at a site that is not owned or operated by the farmer;

13 (h) Scientific studies to evaluate and quantify the greenhouse  
14 gas emissions avoided as a result of using crop residues as a biofuel  
15 feedstock or to identify management practices that increase the  
16 greenhouse gas emissions avoided as a result of using crop residues  
17 as a biofuel feedstock;

18 (i) Efforts to support the farm use of anaerobic digester  
19 digestate, including scientific studies, education and outreach to  
20 farmers, and the purchase or lease of digestate spreading equipment;  
21 and

22 (j) Other equipment purchases or financial assistance deemed  
23 appropriate by the commission to fulfill the intent of RCW 89.08.610  
24 through 89.08.635.

25 (7) Grant applications are eligible for costs associated with  
26 technical assistance.

27 (8) Conservation districts and other public entities may apply  
28 for a single grant from the commission that serves multiple farmers.

29 (9) Grant applicants may apply to share equipment purchased with  
30 grant funds. Applicants for equipment purchase grants issued under  
31 this grant program may be farm, ranch, or aquaculture operations  
32 coordinating as individual businesses or as formal cooperative  
33 ventures serving farm, ranch, or aquaculture operations. Conservation  
34 districts, separately or jointly, may also apply for grant funds to  
35 operate an equipment sharing program.

36 (10) No contract for carbon storage or changes to management  
37 practices may exceed (~~twenty-five~~) 25 years. Grant contracts that  
38 include up-front payments for future benefits must be conditioned to  
39 include penalties for default due to negligence on the part of the  
40 recipient.

1 (11) The commission shall attempt to achieve a geographically  
2 fair distribution of funds across a broad group of crop types, soil  
3 management practices, and farm sizes.

4 (12) Any applications involving state lands leased from the  
5 department of natural resources must include the department's  
6 approval.

7 NEW SECTION. **Sec. 502.** A new section is added to chapter 15.04  
8 RCW to read as follows:

9 (1)(a) Subject to the availability of amounts appropriated for  
10 this specific purpose, the department must establish and implement a  
11 compost reimbursement program to reimburse farming operations in the  
12 state for purchasing and using compost products that were not  
13 generated by the farming operation, including transportation,  
14 spreading equipment, labor, fuel, and maintenance costs associated  
15 with spreading equipment. The grant reimbursements under the program  
16 begin July 1, 2023.

17 (b) For the purposes of this program, "farming operation" means:  
18 A commercial agricultural, silvicultural, or aquacultural facility or  
19 pursuit, including the care and production of livestock and livestock  
20 products, poultry and poultry products, apiary products, and plant  
21 and animal production for nonfood uses; the planting, cultivating,  
22 harvesting, and processing of crops; and the farming or ranching of  
23 any plant or animal species in a controlled salt, brackish, or  
24 freshwater environment.

25 (2) To be eligible to participate in the reimbursement program, a  
26 farming operation must complete an eligibility review with the  
27 department prior to transporting or applying any compost products for  
28 which reimbursement is sought under this section. The purpose of the  
29 review is for the department to ensure that the proposed transport  
30 and application of compost products is consistent with the  
31 department's agricultural pest control rules established under  
32 chapter 17.24 RCW. A farming operation must also verify that it will  
33 allow soil sampling to be conducted by the department upon request  
34 before compost application and until at least 10 years after the last  
35 grant funding is used by the farming operation, as necessary to  
36 establish a baseline of soil quality and carbon storage and for  
37 subsequent department evaluations to assist the department's  
38 reporting requirements under subsection (8) of this section.

1 (3) The department must create a form for eligible farming  
2 operations to apply for cost reimbursement for costs from purchasing  
3 and using compost from facilities with solid waste handling permits,  
4 including transportation, equipment, spreading, and labor costs. All  
5 applications for cost reimbursement must be submitted on the form  
6 along with invoices, receipts, or other documentation acceptable to  
7 the department of the costs of purchasing and using compost products  
8 for which the applicant is requesting reimbursement, as well as a  
9 brief description of what each purchased item will be used for. The  
10 department may request that an applicant provide information to  
11 verify the source, size, sale weight, or amount of compost products  
12 purchased and the cost of transportation, equipment, spreading, and  
13 labor. The applicant must also declare that it is not seeking  
14 reimbursement for purchase or labor costs for:

15 (a) Its own compost products; or

16 (b) Compost products that it has transferred, or intends to  
17 transfer, to another individual or entity, whether or not for  
18 compensation.

19 (4) A farming operation may submit only one application per  
20 fiscal year in which the program is in effect for purchases made and  
21 usage costs incurred during the fiscal year that begins on July 1st  
22 and ends on June 30th. Applications for reimbursement must be filed  
23 before the end of the fiscal year in which purchases were made and  
24 usage costs incurred.

25 (5) The department must distribute reimbursement funds, subject  
26 to the following limitations:

27 (a) A farming operation is not eligible to receive reimbursement  
28 if the farming operation's application was not found eligible for  
29 reimbursement by the department under subsection (2) of this section  
30 prior to the transport or use of compost;

31 (b) A farming operation is not eligible to receive reimbursement  
32 for more than 50 percent of the costs it incurs each fiscal year for  
33 the purchase and use of compost products, including transportation,  
34 equipment, spreading, and labor costs;

35 (c) A farming operation is not eligible to receive more than  
36 \$10,000 per fiscal year;

37 (d) A farming operation is not eligible to receive reimbursement  
38 for its own compost products or compost products that it has  
39 transferred, or intends to transfer, to another individual or entity,  
40 whether or not for compensation; and



1 (e) A farming operation is not eligible to receive reimbursement  
2 for compost products that were not purchased from a facility with a  
3 solid waste handling permit.

4 (6) The applicant shall indemnify and hold harmless the state and  
5 its officers, agents, and employees from all claims arising out of or  
6 resulting from the compost products purchased that are subject to the  
7 compost reimbursement program under this section.

8 (7) There is established within the department a compost  
9 reimbursement program manager position. The compost reimbursement  
10 program manager must possess knowledge and expertise in the area of  
11 program management necessary to carry out the duties of the position,  
12 which are to:

13 (a) Facilitate the division and distribution of available costs  
14 for reimbursement; and

15 (b) Manage the day-to-day coordination of the compost  
16 reimbursement program.

17 (8) In compliance with RCW 43.01.036, the department must submit  
18 an annual report to the appropriate committees of the legislature by  
19 January 15th of each year of the program in which grants have been  
20 issued or completed. The report must include:

21 (a) The amount of compost for which reimbursement was sought  
22 under the program;

23 (b) The qualitative or quantitative effects of the program on  
24 soil quality and carbon storage; and

25 (c) A periodically updated evaluation of the benefits and costs  
26 to the state of expanding or furthering the strategies promoted in  
27 the program.

28 **Sec. 503.** RCW 43.155.020 and 2017 3rd sp.s. c 10 s 2 are each  
29 amended to read as follows:

30 The definitions in this section apply throughout this chapter  
31 unless the context clearly requires otherwise.

32 (1) "Board" means the public works board created in RCW  
33 43.155.030.

34 (2) "Capital facility plan" means a capital facility plan  
35 required by the growth management act under chapter 36.70A RCW or,  
36 for local governments not fully planning under the growth management  
37 act, a plan required by the public works board.

38 (3) "Department" means the department of commerce.

1 (4) "Financing guarantees" means the pledge of money in the  
2 public works assistance account, or money to be received by the  
3 public works assistance account, to the repayment of all or a portion  
4 of the principal of or interest on obligations issued by local  
5 governments to finance public works projects.

6 (5) "Local governments" means cities, towns, counties, special  
7 purpose districts, and any other municipal corporations or quasi-  
8 municipal corporations in the state excluding school districts and  
9 port districts.

10 (6) "Public works project" means a project of a local government  
11 for the planning, acquisition, construction, repair, reconstruction,  
12 replacement, rehabilitation, or improvement of streets and roads,  
13 bridges, water systems, or storm and sanitary sewage systems, lead  
14 remediation of drinking water systems, and solid waste facilities,  
15 including recycling facilities and composting and other organic  
16 materials management facilities. A planning project may include the  
17 compilation of biological, hydrological, or other data on a county,  
18 drainage basin, or region necessary to develop a base of information  
19 for a capital facility plan.

20 (7) "Solid waste or recycling project" means remedial actions  
21 necessary to bring abandoned or closed landfills into compliance with  
22 regulatory requirements and the repair, restoration, and replacement  
23 of existing solid waste transfer, recycling facilities, and landfill  
24 projects limited to the opening of landfill cells that are in  
25 existing and permitted landfills.

26 (8) "Technical assistance" means training and other services  
27 provided to local governments to: (a) Help such local governments  
28 plan, apply, and qualify for loans, grants, and financing guarantees  
29 from the board, and (b) help local governments improve their ability  
30 to plan for, finance, acquire, construct, repair, replace,  
31 rehabilitate, and maintain public facilities.

32 (9) "Value planning" means a uniform approach to assist in  
33 decision making through systematic evaluation of potential  
34 alternatives to solving an identified problem.

35 **PART 6**

36 **Organic Materials Management Facility Siting**

37 **Sec. 601.** RCW 36.70.330 and 1985 c 126 s 3 are each amended to  
38 read as follows:

1 The comprehensive plan shall consist of a map or maps, and  
2 descriptive text covering objectives, principles and standards used  
3 to develop it, and shall include each of the following elements:

4 (1) A land use element which designates the proposed general  
5 distribution and general location and extent of the uses of land for  
6 agriculture, housing, commerce, industry, recreation, education,  
7 public buildings and lands, and other categories of public and  
8 private use of land, including a statement of the standards of  
9 population density and building intensity recommended for the various  
10 areas in the jurisdiction and estimates of future population growth  
11 in the area covered by the comprehensive plan, all correlated with  
12 the land use element of the comprehensive plan. The land use element  
13 shall also provide for protection of the quality and quantity of  
14 groundwater used for public water supplies and shall review drainage,  
15 flooding, and stormwater runoff in the area and nearby jurisdictions  
16 and provide guidance for corrective actions to mitigate or cleanse  
17 those discharges that pollute Puget Sound or waters entering Puget  
18 Sound. Development regulations to implement comprehensive plans that  
19 are newly developed, updated, or amended after January 1, 2025, must  
20 allow for the siting of organic materials management facilities in  
21 the areas identified in RCW 70A.205.040(3)(a)(i) to the extent  
22 necessary to provide for the establishment of the organic materials  
23 management volumetric capacity identified under RCW  
24 70A.205.040(3)(a)(ii);

25 (2) A circulation element consisting of the general location,  
26 alignment and extent of major thoroughfares, major transportation  
27 routes, trunk utility lines, and major terminal facilities, all of  
28 which shall be correlated with the land use element of the  
29 comprehensive plan;

30 (3) Any supporting maps, diagrams, charts, descriptive material  
31 and reports necessary to explain and supplement the above elements.

32 NEW SECTION. Sec. 602. A new section is added to chapter 36.70A  
33 RCW to read as follows:

34 Development regulations to implement comprehensive plans that are  
35 newly developed, updated, or amended after January 1, 2025, must  
36 allow for the siting of organic materials management facilities in  
37 the areas identified in RCW 70A.205.040(3)(a)(i) to the extent  
38 necessary to provide for the establishment of the organic materials

1 management volumetric capacity identified under RCW  
2 70A.205.040(3)(a)(ii).

3 NEW SECTION. **Sec. 603.** A new section is added to chapter 35.63  
4 RCW to read as follows:

5 Development regulations to implement comprehensive plans under  
6 RCW 35.63.100 that are newly developed, updated, or amended after  
7 January 1, 2025, must allow for the siting of organic materials  
8 management facilities in the areas identified by the county in which  
9 the city is located under RCW 70A.205.040(3)(a)(i) to the extent  
10 necessary to provide for the establishment of the organic materials  
11 management volumetric capacity identified under RCW  
12 70A.205.040(3)(a)(ii).

13 NEW SECTION. **Sec. 604.** A new section is added to chapter 35A.63  
14 RCW to read as follows:

15 Development regulations to implement comprehensive plans required  
16 under RCW 35A.63.060 that are newly developed, updated, or amended  
17 after January 1, 2025, must allow for the siting of organic materials  
18 management facilities in the areas identified by the county in which  
19 the city is located under RCW 70A.205.040(3)(a)(i) to the extent  
20 necessary to provide for the establishment of the organic materials  
21 management volumetric capacity identified under RCW  
22 70A.205.040(3)(a)(ii).

23 **PART 7**  
24 **Organic Materials Procurement**

25 NEW SECTION. **Sec. 701.** A new section is added to chapter 43.19A  
26 RCW to read as follows:

27 (1) By January 1, 2023, the following cities or counties shall  
28 adopt a compost procurement ordinance to implement RCW 43.19A.120:

29 (a) Each city or county with a population greater than 25,000  
30 residents as measured by the office of financial management using the  
31 most recent population data available; and

32 (b) Each city or county in which organic material collection  
33 services are provided under chapter 70A.205 RCW.

34 (2) A city or county that newly exceeds a population of 25,000  
35 residents after January 1, 2023, as measured by the office of  
36 financial management, must adopt an ordinance under this subsection

1 no later than 12 months after the office of financial management's  
2 determination that the local government's population has exceeded  
3 25,000.

4 (3) In developing a compost procurement ordinance, each city and  
5 county shall plan for the use of compost in the following categories:

6 (a) Landscaping projects;

7 (b) Construction and postconstruction soil amendments;

8 (c) Applications to prevent erosion, filter stormwater runoff,  
9 promote vegetation growth, or improve the stability and longevity of  
10 roadways; and

11 (d) Low-impact development and green infrastructure to filter  
12 pollutants or keep water on-site, or both.

13 (4) Each city or county that adopts an ordinance under subsection  
14 (1) or (2) of this section must develop strategies to inform  
15 residents about the value of compost and how the jurisdiction uses  
16 compost in its operations in the jurisdiction's comprehensive solid  
17 waste management plan pursuant to RCW 70A.205.045.

18 (5) By December 31, 2024, and each December 31st of even-numbered  
19 years thereafter, each city or county that adopts an ordinance under  
20 subsection (1) or (2) of this section must submit a report covering  
21 the previous year's compost procurement activities to the department  
22 of ecology that contains the following information:

23 (a) The total tons of organic material diverted throughout the  
24 year;

25 (b) The volume and cost of compost purchased throughout the year;  
26 and

27 (c) The source or sources of the compost.

28 (6) Cities and counties that are required to adopt an ordinance  
29 under subsection (1) or (2) of this section shall give priority to  
30 purchasing compost products from companies that produce compost  
31 products locally, are certified by a nationally recognized  
32 organization, and produce compost products that are derived from  
33 municipal solid waste compost programs and meet quality standards  
34 comparable to standards adopted by the department of transportation  
35 or adopted by rule by the department of ecology.

36 (7) Cities and counties may enter into collective purchasing  
37 agreements if doing so is more cost-effective or efficient.

38 (8) Nothing in this section requires a compost processor to:

39 (a) Enter into a purchasing agreement with a city or county;

40 (b) Sell finished compost to meet this requirement; or

1 (c) Accept or process food waste or compostable products.

2 **Sec. 702.** RCW 39.30.040 and 2013 c 24 s 1 are each amended to  
3 read as follows:

4 (1) Whenever a unit of local government is required to make  
5 purchases from the lowest bidder or from the supplier offering the  
6 lowest price for the items desired to be purchased, the unit of local  
7 government may, at its option when awarding a purchase contract, take  
8 into consideration tax revenue it would receive from purchasing the  
9 supplies, materials, or equipment from a supplier located within its  
10 boundaries. The unit of local government must award the purchase  
11 contract to the lowest bidder after such tax revenue has been  
12 considered. However, any local government may allow for preferential  
13 purchase of products made from recycled materials or products that  
14 may be recycled or reused. Any local government may allow for  
15 preferential purchase of compost to meet the requirements of RCW  
16 43.19A.120. Any unit of local government which considers tax revenue  
17 it would receive from the imposition of taxes upon a supplier located  
18 within its boundaries must also consider tax revenue it would receive  
19 from taxes it imposes upon a supplier located outside its boundaries.

20 (2) A unit of local government may award a contract to a bidder  
21 submitting the lowest bid before taxes are applied. The unit of local  
22 government must provide notice of its intent to award a contract  
23 based on this method prior to bids being submitted. For the purposes  
24 of this subsection (2), "taxes" means only those taxes that are  
25 included in "tax revenue" as defined in this section.

26 (3) The definitions in this subsection apply throughout this  
27 section unless the context clearly requires otherwise.

28 (a) "Tax revenue" means sales taxes that units of local  
29 government impose upon the sale of supplies, materials, or equipment  
30 from the supplier to units of local government, and business and  
31 occupation taxes that units of local government impose upon the  
32 supplier that are measured by the gross receipts of the supplier from  
33 the sale.

34 (b) "Unit of local government" means any county, city, town,  
35 metropolitan municipal corporation, public transit benefit area,  
36 county transportation authority, or other municipal or quasi-  
37 municipal corporation authorized to impose sales and use taxes or  
38 business and occupation taxes.

1 NEW SECTION. **Sec. 703.** A new section is added to chapter 43.19A  
2 RCW to read as follows:

3 A contract by a local government or state agency must require the  
4 use of compost products to the maximum extent economically feasible  
5 to meet the requirements established in RCW 43.19A.120.

6 **PART 8**

7 **Product Degradability Labeling**

8 **Sec. 801.** RCW 70A.455.010 and 2019 c 265 s 1 are each amended to  
9 read as follows:

10 (1) The legislature finds and declares that it is the public  
11 policy of the state that:

12 (a) Environmental marketing claims for plastic products, whether  
13 implicit or implied, should adhere to uniform and recognized  
14 standards for "compostability" and "biodegradability," since  
15 misleading, confusing, and deceptive labeling can negatively impact  
16 local composting programs and compost processors. Plastic products  
17 marketed as being "compostable" should be readily and easily  
18 identifiable as meeting these standards;

19 (b) Legitimate and responsible packaging and plastic product  
20 manufacturers are already properly labeling their compostable  
21 products, but many manufacturers are not. Not all compost facilities  
22 and their associated processing technologies accept or are required  
23 to accept compostable packaging as feedstocks. However, implementing  
24 a standardized system and test methods may create the ability for  
25 them to take these products in the future.

26 (2) Therefore, it is the intent of the legislature to authorize  
27 the (~~state's attorney general and local governments~~) department of  
28 ecology, cities, and counties to pursue false or misleading  
29 environmental claims and "greenwashing" for plastic products claiming  
30 to be "compostable" or "biodegradable" when in fact they are not.

31 **Sec. 802.** RCW 70A.455.020 and 2019 c 265 s 2 are each amended to  
32 read as follows:

33 The definitions in this section apply throughout this chapter  
34 unless the context clearly requires otherwise.

35 (1) "ASTM" means the American society for testing and materials.

1 (2) "Biodegradable mulch film" means film plastic used as a  
2 technical tool in commercial farming applications that biodegrades in  
3 soil after being used, and:

4 (a) The film product fulfills plant growth and regulated metals  
5 requirements of ASTM D6400; and

6 (b) (i) Meets the requirements of Vincotte's "OK Biodegradable  
7 Soil" certification scheme, as that certification existed as of  
8 January 1, 2019;

9 (ii) At ambient temperatures and in soil, shows at least  
10 (~~ninety~~) 90 percent biodegradation absolute or relative to  
11 microcrystalline cellulose in less than two years' time, tested  
12 according to ISO 17556 or ASTM 5988 standard test methods, as those  
13 test methods existed as of January 1, 2019; or

14 (iii) Meets the requirements of EN 17033 "plastics-biodegradable  
15 mulch films for use in agriculture and horticulture" as it existed on  
16 January 1, 2019.

17 (3) "Federal trade commission guides" means the United States  
18 federal trade commission's guides for the use of environmental  
19 marketing claims (Part 260, commencing at section 260.1),  
20 compostability claims, including section 260.8, and degradation  
21 claims (subchapter B of chapter I of Title 16 of the Code of Federal  
22 Regulations), as those guides existed as of January 1, 2019.

23 (4) "Film product" means a bag, sack, wrap, or other sheet film  
24 product.

25 (5) "Food service product" (~~(means a product including, but not~~  
26 ~~limited to, containers, plates, bowls, cups, lids, meat trays,~~  
27 ~~straws, deli rounds, cocktail picks, splash sticks, condiment~~  
28 ~~packaging, clam shells and other hinged or lidded containers,~~  
29 ~~sandwich wrap, utensils, sachets, portion cups, and other food~~  
30 ~~service products that are intended for one-time use and used for food~~  
31 ~~or drink offered for sale or use)) has the same meaning as defined in  
32 RCW 70A.245.010.~~

33 (~~("Manufacturer" means a person, firm, association,~~  
34 ~~partnership, or corporation that produces a product.~~

35 (~~7~~)) "Person" means individual, firm, association,  
36 copartnership, political subdivision, government agency,  
37 municipality, industry, public or private corporation, or any other  
38 entity whatsoever.

39 (~~8~~)) (7) "Plastic food packaging and food service products"  
40 means food packaging and food service products that is composed of:



1 (a) Plastic; or  
2 (b) Fiber or paper with a plastic coating, window, component, or  
3 additive.

4 ~~((9))~~ (8) "Plastic product" means a product made of plastic,  
5 whether alone or in combination with another material including, but  
6 not limited to, paperboard. A plastic product includes, but is not  
7 limited to, any of the following:

8 (a) A product or part of a product that is used, bought, or  
9 leased for use by a person for any purpose;

10 (b) A package or a packaging component including, but not limited  
11 to, packaging peanuts;

12 (c) A film product; or

13 (d) Plastic food packaging and food service products.

14 ~~((10))~~ (9) "Standard specification" means either:

15 (a) ASTM D6400 - standard specification labeling of plastics  
16 designed to be aerobically composted in municipal or industrial  
17 facilities, as it existed as of January 1, 2019; or

18 (b) ASTM D6868 - standard specification for labeling of end items  
19 that incorporate plastics and polymers as coatings or additives with  
20 paper and other substrates designed to be aerobically composted in  
21 municipal or industrial facilities, as it existed as of January 1,  
22 2019.

23 ~~((11) (a) "Supplier" means a person, firm, association,  
24 partnership, company, or corporation that sells, offers for sale,  
25 offers for promotional purposes, or takes title to a product.~~

26 ~~(b) "Supplier" does not include a person, firm, association,  
27 partnership, company, or corporation that sells products to end users  
28 as a retailer.~~

29 ~~(12))~~ (10) "Utensil" means a product designed to be used by a  
30 consumer to facilitate the consumption of food or beverages,  
31 including knives, forks, spoons, cocktail picks, chopsticks, splash  
32 sticks, and stirrers.

33 (11) "Department" means the department of ecology.

34 (12) "Producer" means the following person responsible for  
35 compliance under this chapter for a product sold, offered for sale,  
36 or distributed in or into this state:

37 (a) If the product is sold under the manufacturer's own brand or  
38 lacks identification of a brand, the producer is the person who  
39 manufactures the product;

1 (b) If the product is manufactured by a person other than the  
2 brand owner, the producer is the person that is the licensee of a  
3 brand or trademark under which a product is used in a commercial  
4 enterprise, sold, offered for sale, or distributed in or into this  
5 state, whether or not the trademark is registered in this state,  
6 unless the manufacturer or brand owner of the product has agreed to  
7 accept responsibility under this chapter; or

8 (c) If there is no person described in (a) and (b) of this  
9 subsection over whom the state can constitutionally exercise  
10 jurisdiction, the producer is the person who imports or distributes  
11 the product in or into the state.

12 **Sec. 803.** RCW 70A.455.040 and 2019 c 265 s 4 are each amended to  
13 read as follows:

14 (1) ~~((a))~~ A product labeled as "compostable" that is sold,  
15 offered for sale, or distributed for use in Washington by a  
16 ~~((supplier or manufacturer))~~ producer must:

17 ~~((i))~~ (a) Meet ASTM standard specification D6400;

18 ~~((ii))~~ (b) Meet ASTM standard specification D6868; or

19 ~~((iii))~~ (c) Be comprised of wood, which includes renewable  
20 wood, or fiber-based substrate only;

21 ~~((b))~~ (2) A product described in ~~((a)(i) or (ii) of this))~~  
22 subsection (1)(a) or (b) of this section must:

23 ~~((i))~~ (a) Meet labeling requirements established under the  
24 United States federal trade commission's guides; and

25 ~~((ii))~~ (b) Feature labeling that:

26 ~~((A))~~ (i) Meets industry standards for being distinguishable  
27 upon quick inspection in both public sorting areas and in processing  
28 facilities;

29 ~~((B))~~ (ii) Uses a logo indicating the product has been  
30 certified by a recognized third-party independent verification body  
31 as meeting the ASTM standard specification; ~~(and~~

32 ~~(C))~~ (iii) Displays the word "compostable," where possible,  
33 indicating the product has been tested by a recognized third-party  
34 independent body and meets the ASTM standard specification; and

35 (iv) Uses green, beige, or brown labeling, color striping, or  
36 other green, beige, or brown symbols, colors, tinting, marks, or  
37 design patterns that help differentiate compostable items from  
38 noncompostable items.

1       ~~((2) A compostable product described in subsection (1)(a)(i) or~~  
2 ~~(ii) of this section must be considered compliant with the~~  
3 ~~requirements of this section if it:~~  
4       ~~(a) Has green or brown labeling;~~  
5       ~~(b) Is labeled as compostable; and~~  
6       ~~(c) Uses distinctive color schemes, green or brown color~~  
7 ~~striping, or other adopted symbols, colors, marks, or design patterns~~  
8 ~~that help differentiate compostable items from noncompostable~~  
9 ~~materials.))~~

10       **Sec. 804.** RCW 70A.455.050 and 2019 c 265 s 5 are each amended to  
11 read as follows:

12       (1) A (~~manufacturer or supplier~~) producer of a film bag that  
13 meets ASTM standard specification D6400 and is distributed or sold by  
14 retailers must ensure that the film bag is readily and easily  
15 identifiable from other film bags in a manner that is consistent with  
16 the federal trade commission guides.

17       (2) For purposes of this section, "readily and easily  
18 identifiable" products must meet the following requirements:

19       (a) Be labeled with a certification logo indicating the bag meets  
20 the ASTM D6400 standard specification if the bag has been certified  
21 as meeting that standard by a recognized third-party independent  
22 verification body;

23       (b) Be labeled in accordance with one of the following:

24       (i) The bag is tinted or made of a uniform color of green, beige,  
25 or brown and labeled with the word "compostable" on one side of the  
26 bag and the label must be at least one inch in height; or

27       (ii) Be labeled with the word "compostable" on both sides of the  
28 bag and the label must be one of the following:

29       (A) Green, beige, or brown color lettering at least one inch in  
30 height; or

31       (B) Within a contrasting green, beige, or brown color band of at  
32 least one inch in height on both sides of the bag with color  
33 contrasting lettering of at least one-half inch in height; and

34       (c) Meet industry standards for being distinguishable upon quick  
35 inspection in both public sorting areas and in processing facilities.

36       (3) If a bag is smaller than (~~fourteen~~) 14 inches by  
37 (~~fourteen~~) 14 inches, the lettering and stripe required under  
38 subsection (2)(b)(ii) of this section must be in proportion to the  
39 size of the bag.

1 (4) A film bag that meets ASTM standard specification D6400 that  
2 is sold or distributed in this state may not display a chasing arrow  
3 resin identification code or recycling type of symbol in any form.

4 (5) A (~~manufacturer or supplier~~) producer is required to comply  
5 with this section only to the extent that the labeling requirements  
6 do not conflict with the federal trade commission guides.

7 **Sec. 805.** RCW 70A.455.060 and 2020 c 20 s 1446 are each amended  
8 to read as follows:

9 (1)(a) A (~~manufacturer or supplier~~) producer of plastic food  
10 service products or film products that meet ASTM standard  
11 specification D6400 or ASTM standard specification D6868 must ensure  
12 that the items are readily and easily identifiable from other plastic  
13 food service products or plastic film products in a manner that is  
14 consistent with the federal trade commission guides.

15 (b) Film bags are exempt from the requirements of this section,  
16 and are instead subject to the requirements of RCW 70A.455.050.

17 (2) For the purposes of this section, "readily and easily  
18 identifiable" products must:

19 (a) Be labeled with a logo indicating the product has been  
20 certified by a recognized third-party independent verification body  
21 as meeting the ASTM standard specification;

22 (b) Be labeled with the word "compostable," where possible,  
23 indicating the food packaging or film product has been tested by a  
24 recognized third-party independent body and meets the ASTM standard  
25 specification; (~~and~~)

26 (c) Meet industry standards for being distinguishable upon quick  
27 inspection in both public sorting areas and in processing facilities;  
28 and

29 (d) Be at least partially colored or partially tinted green,  
30 beige, or brown.

31 (~~(3) (A compostable product described in subsection (1) of this~~  
32 ~~section must be considered compliant with the requirements of this~~  
33 ~~section if it:~~

34 ~~(a) Has green or brown labeling;~~

35 ~~(b) Is labeled as compostable; and~~

36 ~~(c) Uses distinctive color schemes, green or brown color~~  
37 ~~striping, or other adopted symbols, colors, marks, or design patterns~~  
38 ~~that help differentiate compostable items from noncompostable~~  
39 ~~materials.~~

1       ~~(4)~~) It is encouraged that each product described in subsection  
2 (1) of this section(~~(~~  
3       ~~(a) Display~~) display labeling language via printing, embossing,  
4 or compostable adhesive stickers using, when possible, either the  
5 colors green, beige, or brown that contrast with background product  
6 color for easy identification(~~(~~  
7       ~~(b) Be tinted green or brown~~)).

8       ~~((5))~~ (4) Graphic elements are encouraged to increase  
9 legibility of the word "compostable" and overall product distinction  
10 that may include text boxes, stripes, bands, or a green, beige, or  
11 brown tint of the product.

12       ~~((6))~~ (5) A ~~((manufacturer or supplier))~~ producer is required  
13 to comply with this section only to the extent that the labeling  
14 requirements do not conflict with the federal trade commission  
15 guides.

16       **Sec. 806.** RCW 70A.455.070 and 2020 c 20 s 1447 are each amended  
17 to read as follows:

18       ~~(1) A ((manufacturer or supplier of film products or food service~~  
19 ~~products))~~ producer of plastic film bags sold, offered for sale, or  
20 distributed for use in Washington that does not meet the applicable  
21 ASTM standard specifications provided in RCW 70A.455.050 ~~((and~~  
22 ~~70A.455.060))~~ is:

23       ~~((1))~~ (a) Prohibited from using tinting, color schemes,  
24 labeling, ~~((and))~~ or terms that are required of products that meet  
25 the applicable ASTM standard specifications under RCW 70A.455.050  
26 ~~((and 70A.455.060))~~;

27       ~~((2))~~ (b) Discouraged from using ~~((coloration,))~~ labeling,  
28 images, and terms that may reasonably be anticipated to confuse  
29 consumers into believing that noncompostable ~~((bags and food service~~  
30 ~~packaging))~~ products are compostable; and

31       ~~((3))~~ (c) Encouraged to use ~~((coloration,))~~ labeling, images,  
32 and terms to help consumers identify noncompostable bags ~~((and food~~  
33 ~~service packaging))~~ as either: ~~((a))~~ (i) Suitable for recycling; or  
34 ~~((b))~~ (ii) necessary to dispose as waste.

35       (2) A producer of food service products, or plastic film products  
36 other than plastic film bags subject to subsection (1) of this  
37 section, sold, offered for sale, or distributed for use in Washington  
38 that does not meet the applicable ASTM standard specifications  
39 provided in RCW 70A.455.060 is:

1 (a) Prohibited from using labeling, or terms that are required of  
2 products that meet the applicable ASTM standard specifications under  
3 RCW 70A.455.060;

4 (b) Discouraged from using labeling, images, and terms that may  
5 reasonably be anticipated to confuse consumers into believing that  
6 noncompostable products are compostable; and

7 (c) Encouraged to use tinting, coloration, labeling, images, and  
8 terms to help consumers identify film products and food service  
9 packaging as either: (i) Suitable for recycling; or (ii) necessary to  
10 dispose as waste.

11 **Sec. 807.** RCW 70A.455.080 and 2019 c 265 s 8 are each amended to  
12 read as follows:

13 (1) Upon the request by a person, including the department, a  
14 ~~((manufacturer or supplier))~~ producer shall submit to that person or  
15 the department, within ~~((ninety))~~ 90 days of the request,  
16 nonconfidential business information and documentation demonstrating  
17 compliance with this chapter, in a format that is easy to understand  
18 and scientifically accurate.

19 (2) Upon request by a commercial compost processing facility,  
20 ~~((manufacturers))~~ producers of compostable products are encouraged to  
21 provide the facility with information regarding the technical aspects  
22 of a commercial composting environment, such as heat or moisture, in  
23 which the ~~((manufacturer's))~~ producer's product has been field tested  
24 and found to degrade.

25 **Sec. 808.** RCW 70A.455.090 and 2020 c 20 s 1448 are each amended  
26 to read as follows:

27 (1) (a) The ~~((state, acting through the attorney general,))~~  
28 department and cities and counties have concurrent authority to  
29 enforce this chapter and to issue and collect civil penalties for a  
30 violation of this chapter, subject to the conditions in this section  
31 and RCW 70A.455.100. An enforcing government entity may impose a  
32 civil penalty in the amount of up to ~~((two thousand dollars))~~ \$2,000  
33 for the first violation of this chapter, up to ~~((five thousand~~  
34 ~~dollars))~~ \$5,000 for the second violation of this chapter, and up to  
35 ~~((ten thousand dollars))~~ \$10,000 for the third and any subsequent  
36 violation of this chapter. If a ~~((manufacturer or supplier))~~ producer  
37 has paid a prior penalty for the same violation to a different  
38 government entity with enforcement authority under this subsection,

1 the penalty imposed by a government entity is reduced by the amount  
2 of the payment.

3 (b) The enforcement of this chapter must be based primarily on  
4 complaints filed with the department and cities and counties. The  
5 department must establish a forum for the filing of complaints.  
6 Cities, counties, or any person may file complaints with the  
7 department using the forum, and cities and counties may review  
8 complaints filed with the department via the forum. The forum  
9 established by the department may include a complaint form on the  
10 department's website, a telephone hotline, or a public outreach  
11 strategy relying upon electronic social media to receive complaints  
12 that allege violations. The department, in collaboration with the  
13 cities and counties, must provide education and outreach activities  
14 to inform retail establishments, consumers, and producers about the  
15 requirements of this chapter.

16 ~~(2) ((Any civil penalties collected pursuant to this section must~~  
17 ~~be paid to the office of the city attorney, city prosecutor, district~~  
18 ~~attorney, or attorney general, whichever office brought the action.~~  
19 ~~Penalties collected by the attorney general on behalf of the state~~  
20 ~~must be deposited in the compostable products revolving account~~  
21 ~~created in RCW 70A.455.110)) Penalties issued by the department are~~  
22 ~~appealable to the pollution control hearings board established in~~  
23 ~~chapter 43.21B RCW.~~

24 (3) The remedies provided by this section are not exclusive and  
25 are in addition to the remedies that may be available pursuant to  
26 chapter 19.86 RCW or other consumer protection laws, if applicable.

27 (4) In addition to penalties recovered under this section, the  
28 enforcing ~~((government entity))~~ city or county may recover reasonable  
29 enforcement costs and attorneys' fees from the liable ~~((manufacturer~~  
30 ~~or supplier))~~ producer.

31 **Sec. 809.** RCW 70A.455.100 and 2020 c 20 s 1449 are each amended  
32 to read as follows:

33 ~~((Manufacturers and suppliers))~~ (1) Producers who violate the  
34 requirements of this chapter are subject to civil penalties described  
35 in RCW 70A.455.090. A specific violation is deemed to have occurred  
36 upon the sale of noncompliant product by stock-keeping unit number or  
37 unique item number. The repeated sale of the same noncompliant  
38 product by stock-keeping unit number or unique item number is  
39 considered a single violation. ~~((A city, county, or the state))~~

1       (2) (a) A city or county enforcing a requirement of this chapter  
2 must send a written notice and a copy of the requirements to a  
3 noncompliant (~~(manufacturer or supplier)~~) producer of an alleged  
4 violation, who will have (~~(ninety)~~) 90 days to become compliant. (~~(A~~  
5 ~~city, county, or the state may assess a first penalty if the~~  
6 ~~manufacturer or supplier has not met the requirements ninety days~~  
7 ~~following the date the notification was sent. A city, county, or the~~  
8 ~~state)~~)

9       (b) A city or county enforcing a requirement of this chapter may  
10 assess a first penalty if the producer has not met the requirements  
11 90 days following the date the notification was sent. A city or  
12 county may impose second, third, and subsequent penalties on a  
13 (~~(manufacturer or supplier)~~) producer that remains noncompliant with  
14 the requirements of this chapter for every month of noncompliance.

15       (3) The department may only impose penalties under this chapter  
16 consistent with the standards established in RCW 43.21B.300.

17       NEW SECTION.     **Sec. 810.**     A new section is added to chapter  
18 70A.455 RCW to read as follows:

19       (1) The department may adopt rules as necessary for the purpose  
20 of implementing, administering, and enforcing this chapter.

21       (2) Producers of a product subject to RCW 70A.455.040,  
22 70A.455.050, or 70A.455.060 must submit, under penalty of perjury, a  
23 declaration that the product meets the standards established under  
24 those sections of this chapter for the product. This declaration must  
25 be submitted to the department:

26       (a) By January 1, 2024, for a product that is or will be sold or  
27 distributed into Washington beginning January 1, 2024;

28       (b) Prior to the sale or distribution of a product newly sold or  
29 distributed into Washington after January 1, 2024; and

30       (c) Prior to the sale or distribution of a product whose method  
31 of compliance with the standards established in RCW 70A.455.040,  
32 70A.455.050, or 70A.455.060 is materially changed from the method of  
33 compliance used at the last declaration submission under this  
34 section.

35       (3) The department must begin enforcing the requirements of this  
36 chapter by July 1, 2024.

37       **Sec. 811.**     RCW 70A.455.030 and 2019 c 265 s 3 are each amended to  
38 read as follows:



1 (1) Except as provided in this chapter, no (~~manufacturer or~~  
2 ~~supplier~~) producer may sell, offer for sale, or distribute for use  
3 in this state a plastic product that is labeled with the term  
4 "biodegradable," "degradable," "decomposable," "oxo-degradable," or  
5 any similar form of those terms, or in any way imply that the plastic  
6 product will break down, fragment, biodegrade, or decompose in a  
7 landfill or other environment.

8 (2) This section does not apply to biodegradable mulch film that  
9 meets the required testing and has the appropriate third-party  
10 certifications.

11 **Sec. 812.** RCW 43.21B.110 and 2021 c 316 s 41 and 2021 c 313 s 16  
12 are each reenacted and amended to read as follows:

13 (1) The hearings board shall only have jurisdiction to hear and  
14 decide appeals from the following decisions of the department, the  
15 director, local conservation districts, the air pollution control  
16 boards or authorities as established pursuant to chapter 70A.15 RCW,  
17 local health departments, the department of natural resources, the  
18 department of fish and wildlife, the parks and recreation commission,  
19 and authorized public entities described in chapter 79.100 RCW:

20 (a) Civil penalties imposed pursuant to RCW 18.104.155,  
21 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070,  
22 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080,  
23 70A.65.200, 70A.455.090, 76.09.170, 77.55.440, 78.44.250, 88.46.090,  
24 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

25 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,  
26 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070,  
27 70A.245.020, 70A.65.200, 86.16.020, 88.46.070, 90.14.130, 90.46.250,  
28 90.48.120, and 90.56.330.

29 (c) Except as provided in RCW 90.03.210(2), the issuance,  
30 modification, or termination of any permit, certificate, or license  
31 by the department or any air authority in the exercise of its  
32 jurisdiction, including the issuance or termination of a waste  
33 disposal permit, the denial of an application for a waste disposal  
34 permit, the modification of the conditions or the terms of a waste  
35 disposal permit, or a decision to approve or deny an application for  
36 a solid waste permit exemption under RCW 70A.205.260.

37 (d) Decisions of local health departments regarding the grant or  
38 denial of solid waste permits pursuant to chapter 70A.205 RCW.

1 (e) Decisions of local health departments regarding the issuance  
2 and enforcement of permits to use or dispose of biosolids under RCW  
3 70A.226.090.

4 (f) Decisions of the department regarding waste-derived  
5 fertilizer or micronutrient fertilizer under RCW 15.54.820, and  
6 decisions of the department regarding waste-derived soil amendments  
7 under RCW 70A.205.145.

8 (g) Decisions of local conservation districts related to the  
9 denial of approval or denial of certification of a dairy nutrient  
10 management plan; conditions contained in a plan; application of any  
11 dairy nutrient management practices, standards, methods, and  
12 technologies to a particular dairy farm; and failure to adhere to the  
13 plan review and approval timelines in RCW 90.64.026.

14 (h) Any other decision by the department or an air authority  
15 which pursuant to law must be decided as an adjudicative proceeding  
16 under chapter 34.05 RCW.

17 (i) Decisions of the department of natural resources, the  
18 department of fish and wildlife, and the department that are  
19 reviewable under chapter 76.09 RCW, and the department of natural  
20 resources' appeals of county, city, or town objections under RCW  
21 76.09.050(7).

22 (j) Forest health hazard orders issued by the commissioner of  
23 public lands under RCW 76.06.180.

24 (k) Decisions of the department of fish and wildlife to issue,  
25 deny, condition, or modify a hydraulic project approval permit under  
26 chapter 77.55 RCW, to issue a stop work order, to issue a notice to  
27 comply, to issue a civil penalty, or to issue a notice of intent to  
28 disapprove applications.

29 (l) Decisions of the department of natural resources that are  
30 reviewable under RCW 78.44.270.

31 (m) Decisions of an authorized public entity under RCW 79.100.010  
32 to take temporary possession or custody of a vessel or to contest the  
33 amount of reimbursement owed that are reviewable by the hearings  
34 board under RCW 79.100.120.

35 (n) Decisions of the department of ecology that are appealable  
36 under RCW 70A.245.020 to set recycled minimum postconsumer content  
37 for covered products or to temporarily exclude types of covered  
38 products in plastic containers from minimum postconsumer recycled  
39 content requirements.

40 (o) Orders by the department of ecology under RCW 70A.455.080.

1 (2) The following hearings shall not be conducted by the hearings  
2 board:

3 (a) Hearings required by law to be conducted by the shorelines  
4 hearings board pursuant to chapter 90.58 RCW.

5 (b) Hearings conducted by the department pursuant to RCW  
6 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,  
7 70A.15.3110, and 90.44.180.

8 (c) Appeals of decisions by the department under RCW 90.03.110  
9 and 90.44.220.

10 (d) Hearings conducted by the department to adopt, modify, or  
11 repeal rules.

12 (3) Review of rules and regulations adopted by the hearings board  
13 shall be subject to review in accordance with the provisions of the  
14 administrative procedure act, chapter 34.05 RCW.

15 **Sec. 813.** RCW 43.21B.300 and 2021 c 316 s 42 and 2021 c 313 s 17  
16 are each reenacted and amended to read as follows:

17 (1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160,  
18 70A.205.280, 70A.300.090, 70A.20.050, 70A.245.040, 70A.245.050,  
19 70A.245.070, 70A.245.080, 70A.65.200, 70A.455.090, 88.46.090,  
20 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102  
21 and chapter 70A.355 RCW shall be imposed by a notice in writing,  
22 either by certified mail with return receipt requested or by personal  
23 service, to the person incurring the penalty from the department or  
24 the local air authority, describing the violation with reasonable  
25 particularity. For penalties issued by local air authorities, within  
26 (~~thirty~~) 30 days after the notice is received, the person incurring  
27 the penalty may apply in writing to the authority for the remission  
28 or mitigation of the penalty. Upon receipt of the application, the  
29 authority may remit or mitigate the penalty upon whatever terms the  
30 authority in its discretion deems proper. The authority may ascertain  
31 the facts regarding all such applications in such reasonable manner  
32 and under such rules as it may deem proper and shall remit or  
33 mitigate the penalty only upon a demonstration of extraordinary  
34 circumstances such as the presence of information or factors not  
35 considered in setting the original penalty.

36 (2) Any penalty imposed under this section may be appealed to the  
37 pollution control hearings board in accordance with this chapter if  
38 the appeal is filed with the hearings board and served on the  
39 department or authority (~~thirty~~) 30 days after the date of receipt

1 by the person penalized of the notice imposing the penalty or  
2 (~~thirty~~) 30 days after the date of receipt of the notice of  
3 disposition by a local air authority of the application for relief  
4 from penalty.

5 (3) A penalty shall become due and payable on the later of:

6 (a) Thirty days after receipt of the notice imposing the penalty;

7 (b) Thirty days after receipt of the notice of disposition by a  
8 local air authority on application for relief from penalty, if such  
9 an application is made; or

10 (c) Thirty days after receipt of the notice of decision of the  
11 hearings board if the penalty is appealed.

12 (4) If the amount of any penalty is not paid to the department  
13 within (~~thirty~~) 30 days after it becomes due and payable, the  
14 attorney general, upon request of the department, shall bring an  
15 action in the name of the state of Washington in the superior court  
16 of Thurston county, or of any county in which the violator does  
17 business, to recover the penalty. If the amount of the penalty is not  
18 paid to the authority within (~~thirty~~) 30 days after it becomes due  
19 and payable, the authority may bring an action to recover the penalty  
20 in the superior court of the county of the authority's main office or  
21 of any county in which the violator does business. In these actions,  
22 the procedures and rules of evidence shall be the same as in an  
23 ordinary civil action.

24 (5) All penalties recovered shall be paid into the state treasury  
25 and credited to the general fund except those penalties imposed  
26 pursuant to RCW 18.104.155, which shall be credited to the  
27 reclamation account as provided in RCW 18.104.155(7), RCW  
28 70A.15.3160, the disposition of which shall be governed by that  
29 provision, RCW 70A.245.040 and 70A.245.050, which shall be credited  
30 to the recycling enhancement account created in RCW 70A.245.100, RCW  
31 70A.300.090, which shall be credited to the model toxics control  
32 operating account created in RCW 70A.305.180, RCW 70A.65.200, which  
33 shall be credited to the climate investment account created in RCW  
34 70A.65.250, RCW 90.56.330, which shall be credited to the coastal  
35 protection fund created by RCW 90.48.390, and RCW 70A.355.070, which  
36 shall be credited to the underground storage tank account created by  
37 RCW 70A.355.090.

38 **PART 9**

39 **Miscellaneous**

1        NEW SECTION.    **Sec. 901.**    Sections 401, 402, and 405 of this act  
2    constitute a new chapter in Title 70A RCW.

3        NEW SECTION.    **Sec. 902.**    Nothing in this act changes or limits  
4    the authority of the Washington utilities and transportation  
5    commission to regulate the collection of solid waste, including  
6    curbside collection of residential recyclable materials, nor does  
7    this section change or limit the authority of a city or town to  
8    provide the service itself or by contract under RCW 81.77.020.

9        NEW SECTION.    **Sec. 903.**    The following acts or parts of acts are  
10   each repealed:

11        (1) RCW 70A.455.110 (Compostable products revolving account) and  
12    2020 c 20 s 1450 & 2019 c 265 s 11; and

13        (2) RCW 70A.455.900 (Effective date—2019 c 265) and 2019 c 265 s  
14    13.

15        NEW SECTION.    **Sec. 904.**    If any provision of this act or its  
16    application to any person or circumstance is held invalid, the  
17    remainder of the act or the application of the provision to other  
18    persons or circumstances is not affected.

19        NEW SECTION.    **Sec. 905.**    If specific funding for the purposes of  
20    this act, referencing this act by bill or chapter number, is not  
21    provided by June 30, 2022, in the omnibus appropriations act, this  
22    act is null and void.

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