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HOUSE BILL 1932

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State of Washington

67th Legislature

2022 Regular Session

By Representatives Fey, Santos, Duerr, Slatter, and Pollet

Read first time 01/12/22. Referred to Committee on Environment & Energy.

1 AN ACT Relating to the recyclability of products and packaging;  
2 amending RCW 70A.245.010, 70A.245.020, and 70A.245.030; adding a new  
3 chapter to Title 70A RCW; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** The legislature finds and declares that it  
6 is the public policy of the state that claims related to the  
7 recyclability of a product or packaging be truthful in practice and  
8 accurate. Consumers deserve accurate and useful information related  
9 to how to properly handle the end of life of a product or packaging.

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

13 (1)(a) "Chasing arrows symbol" means an equilateral triangle,  
14 formed by three arrows curved at their midpoints, depicting a  
15 clockwise path, with a short gap separating the apex of each arrow  
16 from the base of the adjacent arrow.

17 (b) "Chasing arrows symbol" also includes variants of that symbol  
18 that are likely to be interpreted by a consumer as an implication of  
19 recyclability including, but not limited to, one or more arrows  
20 arranged in a circular pattern or around a globe.

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

2 NEW SECTION. **Sec. 3.** (1) A person may not offer for sale, sell,  
3 distribute, or import into the state any product or packaging for  
4 which a deceptive or misleading claim about the recyclability of the  
5 product or packaging is made.

6 (2) A product or packaging that displays a chasing arrows symbol,  
7 a chasing arrows symbol surrounding a resin identification code, or  
8 any other symbol or statement indicating the product or packaging is  
9 recyclable, or otherwise directing the consumer to recycle the  
10 product or packaging, is deemed to be a deceptive or misleading claim  
11 under this section unless the product or packaging is considered  
12 recyclable in the state under section 5 of this act and is of a  
13 material type and form that routinely becomes feedstock used in the  
14 production of new products or packaging.

15 (a) This section does not apply to either of the following:

16 (i) Any product or packaging that is manufactured up to 18 months  
17 after the date the department publishes the first material  
18 characterization study required under section 4 of this act, or  
19 before January 1, 2025, whichever is later; or

20 (ii) Any product or packaging manufactured up to 18 months after  
21 the date the department updates the material characterization study  
22 under section 4 of this act, if the product or packaging satisfied  
23 or, for a new product or packaging, would have satisfied, the  
24 requirements to be considered recyclable in the state under section 5  
25 of this act before the publication of the updated study.

26 (b) For a product or packaging that is not considered to be  
27 recyclable in the state under section 5 of this act, all the  
28 following apply:

29 (i) Displaying a chasing arrows symbol or any other statement  
30 indicating the product is recyclable directly on the product is  
31 deemed to be deceptive or misleading under this section.

32 (ii) If a product or packaging has multiple material types, a  
33 chasing arrows symbol or statement indicating recyclability may be  
34 displayed on the external packaging that is considered to be  
35 recyclable in the state under section 5 of this act if the chasing  
36 arrows symbol or statement makes clear in the same or greater font,  
37 font size, or symbol size which other components of the product or  
38 packaging are not recyclable.

1 (iii) Displaying a chasing arrows symbol or any other statement  
2 indicating recyclability on packaging containing a consumable product  
3 shall, for purposes of this section, be deemed to refer only to the  
4 packaging.

5 (c) For the purposes of this subsection, "consumable product"  
6 means a commodity that is intended to be used and not disposed of.

7 (3) For the purposes of this section, none of the following  
8 constitutes a deceptive or misleading claim about the recyclability  
9 of the product or packaging under this section:

10 (a) A person using a chasing arrows symbol in combination with a  
11 clearly visible line placed at a 45 degree angle over the chasing  
12 arrows symbol to convey that an item is not recyclable.

13 (b) A consumer good that is required by any federal or Washington  
14 state law or regulation to display a chasing arrows symbol.

15 (c) Directing a consumer to compost or properly dispose of a  
16 consumer good through an organics recycling program.

17 (d) A resin identification code placed inside a solid equilateral  
18 triangle.

19 NEW SECTION. **Sec. 4.** (1) By January 1, 2025, the department  
20 shall produce a material characterization study to provide  
21 information to the public sufficient for evaluating whether a product  
22 or packaging is recyclable in the state according to the criteria set  
23 forth in section 5 of this act and are of material types and forms  
24 that routinely become feedstock used in the production of new  
25 products or packaging.

26 (a) To get a representative sample of recycling programs in the  
27 state, the department shall conduct and publish on its website a  
28 characterization study of material types and forms that are  
29 collected, sorted, sold, or transferred by facilities that process  
30 recyclable materials from curbside recycling programs and other solid  
31 waste facilities deemed appropriate by the department for inclusion  
32 in the study.

33 (b) The material characterization study must:

34 (i) Identify what material types and forms are actively  
35 recovered, and not considered contaminants, by included operations or  
36 facilities; and

37 (ii) How the material collected or processed by the operations  
38 and facilities was collected.

1 (2) The department shall update the material characterization  
2 study required under this section every five years, with the first  
3 update being issued by the department in 2028.

4 (3) For each material characterization study conducted under this  
5 section, the department shall publish on its website the preliminary  
6 findings of the study and conduct a public meeting to present the  
7 preliminary findings and receive public comments. The public meeting  
8 must occur at least 30 days after the department publishes the  
9 preliminary findings. After receiving and considering public  
10 comments, and within 90 days of the public meeting, the department  
11 shall finalize and publish on its website the findings of the study.

12 (4) The department may publish additional information that was  
13 not available at the time of the most recent periodic material  
14 characterization study regarding the appropriate characterization of  
15 material types and forms.

16 NEW SECTION.

**Sec. 5.**

(1)(a) A product or packaging is  
17 considered recyclable in the state if, based on information published  
18 by the department under section 4 of this act, the product or  
19 packaging is of a material type and form that meets both of the  
20 following requirements:

21 (i) The material type and form is collected for recycling by  
22 recycling programs for jurisdictions that collectively encompass at  
23 least 60 percent of the population of the state; and

24 (ii) The material type and form are sorted into defined streams  
25 for recycling processes by large volume transfer or processing  
26 facilities, as provided in chapter 70A.205 RCW, that process  
27 materials and collectively serve at least 60 percent of recycling  
28 programs statewide, with the defined streams sent to and reclaimed at  
29 a reclaiming facility consistent with the requirements of chapter  
30 70A.205 RCW.

31 (b) The department may adopt rules modifying the requirement to  
32 encompass transfer or processing facilities other than large volume  
33 transfer or processing facilities as the department deems appropriate  
34 for achieving the purposes of this section.

35 (2) A product or packaging is not considered recyclable in the  
36 state unless the product or packaging meets all the following  
37 criteria, as applicable:

38 (a) For plastic packaging, the plastic packaging is designed to  
39 not include any components, inks, adhesives, or labels that prevent

1 the recyclability of the packaging according to the APR design guide  
2 published by the association of plastic recyclers; and

3 (b) For plastic products and nonplastic products and packaging,  
4 the product or packaging is designed to ensure recyclability and does  
5 not include any components, inks, adhesives, or labels that prevent  
6 the recyclability of the product or packaging.

7 (3) A product or packaging is recyclable in the state if the  
8 product or packaging has a demonstrated recycling rate of at least 75  
9 percent, meaning that not less than 75 percent of the product or  
10 packaging sorted and aggregated in the state is reprocessed into new  
11 products or packaging.

12 (4) Before January 1, 2031, a product or packaging not collected  
13 under a curbside collection program is recyclable in the state if the  
14 noncurbside collection program recovers at least 60 percent of the  
15 product or packaging in the program and the material has sufficient  
16 commercial value to be marketed for recycling and be transported at  
17 the end of its useful life to a transfer, processing, or recycling  
18 facility to be sorted and aggregated into defined streams by material  
19 type and form.

20 (5) After January 1, 2031, a product or packaging not collected  
21 under a curbside collection program is recyclable in the state if the  
22 noncurbside collection program recovers at least 75 percent of the  
23 product or packaging in the program and the material has sufficient  
24 commercial value to be marketed for recycling and be transported at  
25 the end of its useful life to a transfer, processing, or recycling  
26 facility to be sorted and aggregated into defined streams by material  
27 type and form.

28 (6) A product or packaging is recyclable in the state if the  
29 product or packaging is part of, and in compliance with, a program  
30 established under state or federal law on or after January 1, 2024,  
31 governing the recyclability or disposal of that product or packaging  
32 if the director of the department determines that the product or  
33 packaging will not increase contamination of curbside recycling or  
34 deceive consumers as to the recyclability of the product or  
35 packaging.

36 (7) The information published by the department under section 4  
37 of this act may not limit the discretion of a local government under  
38 existing law to decide whether, and to what extent, a material type  
39 or form is accepted by a local recycling program.

1        NEW SECTION.    **Sec. 6.**    (1) A city, county, or the state may  
2 impose civil liability in the amount of \$500 for the first violation  
3 of this chapter, \$1,000 for the second violation, and \$2,000 for the  
4 third and any subsequent violation.

5        (2) By January 1, 2026, the department shall implement an  
6 enforcement program to investigate and identify violations of this  
7 chapter.

8        **Sec. 7.**    RCW 70A.245.010 and 2021 c 313 s 2 are each amended to  
9 read as follows:

10        The definitions in this section apply throughout this chapter  
11 unless the context clearly requires otherwise.

12        (1) "Beverage" means beverages identified in (a) through (f) of  
13 this subsection, intended for human or animal consumption, and in a  
14 quantity more than or equal to two fluid ounces and less than or  
15 equal to one gallon:

16            (a) Water and flavored water;

17            (b) Beer or other malt beverages;

18            (c) Wine;

19            (d) Distilled spirits;

20            (e) Mineral water, soda water, and similar carbonated soft  
21 drinks; and

22            (f) Any beverage other than those specified in (a) through (e) of  
23 this subsection, except infant formula as defined in 21 U.S.C. Sec.  
24 321(z), medical food as defined in 21 U.S.C. Sec. 360ee(b)(3), or  
25 fortified oral nutritional supplements used for persons who require  
26 supplemental or sole source nutritional needs due to special dietary  
27 needs directly related to cancer, chronic kidney disease, diabetes,  
28 or other medical conditions as determined by the department.

29        (2) "Beverage manufacturing industry" means an association that  
30 represents beverage producers.

31        (3) "Condiment packaging" means packaging used to deliver single-  
32 serving condiments to customers. Condiment packaging includes, but is  
33 not limited to, single-serving packaging for ketchup, mustard,  
34 relish, mayonnaise, hot sauce, coffee creamer, salad dressing, jelly,  
35 jam, and soy sauce.

36        (4) (a) "Covered product" means an item in one of the following  
37 categories subject to minimum postconsumer recycled content  
38 requirements:

39            (i) Plastic trash bags;

1 (ii) Household cleaning and personal care products that use  
2 plastic household cleaning and personal care product containers;  
3 (~~and~~)

4 (iii) Beverages that use plastic beverage containers;

5 (iv) Products that use plastic tubs;

6 (v) Products that use thermoform plastic containers; and

7 (vi) Single-use plastic cups.

8 (b) "Covered product" does not include any type of container or  
9 bag for which the state is preempted from regulating content of the  
10 container material or bag material under federal law.

11 (5) "Dairy milk" means a beverage that designates milk as the  
12 predominant (first) ingredient in the ingredient list on the  
13 container's label.

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

15 (7) "Expanded polystyrene" means blown polystyrene and expanded  
16 and extruded foams that are thermoplastic petrochemical materials  
17 utilizing a styrene monomer and processed by any number of techniques  
18 including, but not limited to, fusion of polymer spheres (expandable  
19 bead polystyrene), injection molding, foam molding, and extrusion-  
20 blow molding (extruded foam polystyrene).

21 (8) "Food service business" means a business selling or providing  
22 food for consumption on or off the premises, and includes full-  
23 service restaurants, fast food restaurants, cafes, delicatessens,  
24 coffee shops, grocery stores, vending trucks or carts, home delivery  
25 services, delivery services provided through an online application,  
26 and business or institutional cafeterias.

27 (9) "Food service product" means a product intended for one-time  
28 use and used for food or drink offered for sale or use. Food service  
29 products include, but are not limited to, containers, plates, bowls,  
30 cups, lids, beverage containers, meat trays, deli rounds, utensils,  
31 sachets, straws, condiment packaging, clamshells and other hinged or  
32 lidded containers, wrap, and portion cups.

33 (10) "Household cleaning and personal care product" means any of  
34 the following:

35 (a) Laundry detergents, softeners, and stain removers;

36 (b) Household cleaning products;

37 (c) Liquid soap;

38 (d) Shampoo, conditioner, styling sprays and gels, and other hair  
39 care products; or

1 (e) Lotion, moisturizer, facial toner, and other skin care  
2 products.

3 (11) "Household cleaning and personal care product manufacturing  
4 industry" means an association that represents companies that  
5 manufacture household cleaning and personal care products.

6 (12) "Licensee" means a manufacturer or entity who licenses a  
7 brand and manufactures a covered product under that brand.

8 (13) "Oral nutritional supplement" means a manufactured liquid,  
9 powder capable of being reconstituted, or solid product that contains  
10 a combination of carbohydrates, proteins, fats, fiber, vitamins, and  
11 minerals intended to supplement a portion of a patient's nutrition  
12 intake.

13 (14) "Plastic beverage container" means a bottle or other rigid  
14 container that is capable of maintaining its shape when empty,  
15 comprised solely of one or multiple plastic resins designed to  
16 contain a beverage. Plastic beverage container does not include:

17 (a) Refillable beverage containers, such as containers that are  
18 sufficiently durable for multiple rotations of their original or  
19 similar purpose and are intended to function in a system of reuse;

20 (b) Rigid plastic containers or plastic bottles that are or are  
21 used for medical devices, medical products that are required to be  
22 sterile, nonprescription and prescription drugs, or dietary  
23 supplements as defined in RCW 82.08.0293;

24 (c) Bladders or pouches that contain wine; ((~~or~~))

25 (d) Liners, caps, corks, closures, labels, and other items added  
26 externally or internally but otherwise separate from the structure of  
27 the bottle or container; or

28 (e) Other covered products subject to minimum postconsumer  
29 recycled content requirements.

30 (15)(a) "Plastic household cleaning and personal care product  
31 container" means a bottle, jug, or other rigid container with a neck  
32 or mouth narrower than the base, and:

33 (i) A minimum capacity of eight fluid ounces or its equivalent  
34 volume;

35 (ii) A maximum capacity of five fluid gallons or its equivalent  
36 volume;

37 (iii) That is capable of maintaining its shape when empty;

38 (iv) Comprised solely of one or multiple plastic resins; and

39 (v) Containing a household cleaning or personal care product.



1 (b) "Plastic household cleaning and personal care product  
2 container" does not include:

3 (i) Refillable household cleaning and personal care product  
4 containers, such as containers that are sufficiently durable for  
5 multiple rotations of their original or similar purpose and are  
6 intended to function in a system of reuse; (~~and~~)

7 (ii) Rigid plastic containers or plastic bottles that are medical  
8 devices, medical products that are required to be sterile, and  
9 nonprescription and prescription drugs, dietary supplements as  
10 defined in RCW 82.08.0293, and packaging used for those products; and

11 (iii) Other covered products subject to minimum postconsumer  
12 recycled content requirements.

13 (16) "Plastic trash bag" means a bag that is made of  
14 noncompostable plastic, is at least 0.70 mils thick, and is designed  
15 and manufactured for use as a container to hold, store, or transport  
16 materials to be discarded or recycled, and includes, but is not  
17 limited to, a garbage bag, recycling bag, lawn or leaf bag, can liner  
18 bag, kitchen bag, or compactor bag. "Plastic trash bag" does not  
19 include any compostable bags meeting the requirements of chapter  
20 70A.455 RCW.

21 (17) "Plastic trash bag manufacturing industry" means an  
22 association that represents companies that manufacture plastic trash  
23 bags.

24 (18) "Postconsumer recycled content" means the content of a  
25 covered product made of recycled materials derived specifically from  
26 recycled material generated by households or by commercial,  
27 industrial, and institutional facilities in their role as end users  
28 of a product that can no longer be used for its intended purpose.  
29 "Postconsumer recycled content" includes returns of material from the  
30 distribution chain.

31 (19)(a) "Producer" means the following person responsible for  
32 compliance with minimum postconsumer recycled content requirements  
33 under this chapter for a covered product sold, offered for sale, or  
34 distributed in or into this state:

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

38 (ii) If the covered product is manufactured by a person other  
39 than the brand owner, the producer is the person who is the licensee  
40 of a brand or trademark under which a covered product is sold,

1 offered for sale, or distributed in or into this state, whether or  
2 not the trademark is registered in this state, unless the  
3 manufacturer or brand owner of the covered product has agreed to  
4 accept responsibility under this chapter; or

5 (iii) If there is no person described in (a)(i) and (ii) of this  
6 subsection over whom the state can constitutionally exercise  
7 jurisdiction, the producer is the person who imports or distributes  
8 the covered product in or into the state.

9 (b) "Producer" does not include:

10 (i) Government agencies, municipalities, or other political  
11 subdivisions of the state;

12 (ii) Registered 501(c)(3) charitable organizations and 501(c)(4)  
13 social welfare organizations; or

14 (iii) De minimis producers that annually sell, offer for sale,  
15 distribute, or import in or into the country for sale in Washington:

16 (A) Less than one ton of a single category of plastic beverage  
17 containers, plastic household cleaning and personal care containers,  
18 ~~((€))~~ plastic trash bags, plastic tubs, thermoform plastic  
19 containers, or single-use plastic cups each year; or

20 (B) A single category of a covered product that in aggregate  
21 generates less than \$1,000,000 each year in revenue.

22 (20)(a) "Retail establishment" means any person, corporation,  
23 partnership, business, facility, vendor, organization, or individual  
24 that sells or provides merchandise, goods, or materials directly to a  
25 customer.

26 (b) "Retail establishment" includes, but is not limited to, food  
27 service businesses, grocery stores, department stores, hardware  
28 stores, home delivery services, pharmacies, liquor stores,  
29 restaurants, catering trucks, convenience stores, or other retail  
30 stores or vendors, including temporary stores or vendors at farmers  
31 markets, street fairs, and festivals.

32 (21)(a) "Utensil" means a product designed to be used by a  
33 consumer to facilitate the consumption of food or beverages,  
34 including knives, forks, spoons, cocktail picks, chopsticks, splash  
35 sticks, and stirrers.

36 (b) "Utensil" does not include plates, bowls, cups, and other  
37 products used to contain food or beverages.

38 (22)(a) "Plastic tub" means a wide mouth rigid container, used to  
39 package consumable or durable goods that reach consumers, with a  
40 maximum capacity of 50 ounces, that is:

1 (i) Capable of maintaining its shape when empty;  
2 (ii) Comprised solely of one or multiple plastic resins and  
3 designed to contain a product; and  
4 (iii) Sealed with tamper-proof film or a detachable lid capable  
5 of multiple openings and closures.

6 (b) "Plastic tub" does not include:

7 (i) Household cleaning and personal care products;  
8 (ii) Plastic containers that are or are used for medical devices,  
9 medical products that are required to be sterile, nonprescription and  
10 prescription drugs, or dietary supplements as defined in RCW  
11 82.08.0293;

12 (iii) Thermoform plastic containers;

13 (iv) Single-use plastic cups; and

14 (v) Other covered products subject to minimum postconsumer  
15 recycled content requirements.

16 (23) (a) "Single-use plastic cup" means a nonsealed, beverage  
17 serving cup comprised solely of one or multiple plastic resins.

18 (b) "Single-use plastic cup" does not include:

19 (i) Commercially or home compostable cups;

20 (ii) Plastic lined fiber cups, also known as composite cups;

21 (iii) Household cleaning and personal care products;

22 (iv) Plastic tubs;

23 (v) Refillable containers, such as containers that are  
24 sufficiently durable for multiple rotations of their original or  
25 similar purpose and are intended to function in a system of reuse;

26 (vi) Plastic cups that are or are used for medical devices,  
27 medical products that are required to be sterile, nonprescription and  
28 prescription drugs, or dietary supplements as defined in RCW  
29 82.08.0293; and

30 (vii) Other covered products subject to minimum postconsumer  
31 recycled content requirements.

32 (24) (a) "Thermoform plastic container" means a clear or colored  
33 plastic container, such as a clamshell, lid, tray, egg carton, or  
34 similar rigid, nonbottle packaging, formed from sheets of extruded  
35 plastic resin and used to package consumable or durable goods that  
36 reach consumers, including:

37 (i) Hinged plastic containers, commonly known as "clamshells" or  
38 "blister packaging";

39 (ii) Two-piece unhinged containers;

40 (iii) One-piece containers without lids, such as trays; and

1 (iv) Trifold or tent containers with one or more hinges and a  
2 flat bottom.

3 (b) "Thermoform plastic container" does not include:

4 (i) Household cleaning and personal care products;

5 (ii) Plastic tubs;

6 (iii) Refillable containers, such as containers that are  
7 sufficiently durable for multiple rotations of their original or  
8 similar purpose and are intended to function in a system of reuse;

9 (iv) A lid or seal of a different material type from plastic;

10 (v) A refillable thermoform plastic container that ordinarily  
11 would be returned to the manufacturer to be refilled and resold;

12 (vi) Plastic containers that are or are used for medical devices,  
13 medical products that are required to be sterile, nonprescription and  
14 prescription drugs, or dietary supplements as defined in RCW  
15 82.08.0293;

16 (vii) Other covered products subject to minimum postconsumer  
17 recycled content requirements; and

18 (viii) Thermoform plastic containers accompanying a durable good  
19 when the durable good model, and the associated packaging, was  
20 designed prior to January 1, 2025.

21 **Sec. 8.** RCW 70A.245.020 and 2021 c 313 s 3 are each amended to  
22 read as follows:

23 (1)(a) Beginning January 1, 2023, producers that offer for sale,  
24 sell, or distribute in or into Washington:

25 (i) Beverages other than wine in 187 milliliter plastic beverage  
26 containers and dairy milk in plastic beverage containers must meet  
27 minimum postconsumer recycled content requirements established under  
28 subsection (4) of this section; and

29 (ii) Plastic trash bags must meet minimum postconsumer recycled  
30 content requirements established under subsection (6) of this  
31 section.

32 (b) Beginning January 1, 2025, producers that offer for sale,  
33 sell, or distribute in or into Washington household cleaning and  
34 personal care products in plastic household cleaning and personal  
35 care product containers must meet minimum postconsumer recycled  
36 content as required under subsection (5) of this section.

37 (c) Beginning January 1, 2026, producers that offer for sale,  
38 sell, or distribute in or into Washington products contained in  
39 plastic tubs or thermoform plastic containers must meet minimum

1 postconsumer recycled content as required under subsection (7) of  
2 this section.

3 (d) Beginning January 1, 2028, producers that offer for sale,  
4 sell, or distribute in or into Washington wine in 187 milliliter  
5 plastic beverage containers or dairy milk in plastic beverage  
6 containers must meet minimum postconsumer recycled content as  
7 required under subsection (4) of this section.

8 (e) Beginning January 1, 2029, producers that offer for sale,  
9 sell, or distribute in or into Washington single-use plastic cups  
10 must meet minimum postconsumer recycled content as required under  
11 subsection (8) of this section.

12 (2) (a) ~~((b))~~ (i) Except as provided in (a)(ii) of this  
13 subsection, on or before April 1, 2022, and annually thereafter, a  
14 producer that offers for sale, sells, or distributes in or into  
15 Washington covered products must register with the department  
16 individually or through a third-party representative registering on  
17 behalf of a group of producers.

18 (ii) A producer that offers for sale, sells, or distributes in or  
19 into Washington single-use plastic cups or products in plastic tubs  
20 or thermoform plastic containers must register with the department  
21 individually or through a third-party representative registering on  
22 behalf of a group of producers on or before April 1, 2023.

23 (b) The registration information submitted to the department  
24 under this section must include a list of the producers of covered  
25 products and the brand names of the covered products represented in  
26 the registration submittal. Beginning April 1, 2024, for plastic  
27 trash bags and plastic beverage containers other than wine in 187  
28 milliliter plastic beverage containers and dairy milk in plastic  
29 beverage containers, April 1, 2026, for plastic household and  
30 personal care product containers, ~~(and)~~ April 1, 2027, for plastic  
31 tubs and thermoform plastic containers, April 1, 2029, for wine in  
32 187 milliliter plastic beverage containers and dairy milk, and April  
33 1, 2030, for single-use plastic cups, a producer may submit  
34 registration information at the same time as the information  
35 submitted through the annual reporting required under RCW  
36 70A.245.030.

37 (3) (a) By January 31, 2022, and every January 31st thereafter,  
38 the department must:

39 (i) Prepare an annual workload analysis for public comment that  
40 identifies the annual costs it expects to incur to implement,

1 administer, and enforce this section and RCW 70A.245.030 through  
2 70A.245.060 and 70A.245.090 (1), (2), and (4), including rule making,  
3 in the next fiscal year for each category of covered products;

4 (ii) Determine a total annual fee payment by producers or their  
5 third-party representatives for each category of covered products  
6 that is adequate to cover, but not exceed, the workload identified in  
7 (a)(i) of this subsection;

8 (iii) Until rules are adopted under (a)(iv) of this subsection,  
9 issue a general order to all entities falling within the definition  
10 of producer. The department must equitably determine fee amounts for  
11 an individual producer or third-party representatives within each  
12 category of covered product;

13 (iv) By 2024, adopt rules to equitably determine annual fee  
14 payments by producers or their third-party representatives within  
15 each category of covered product. Once such rules are adopted, the  
16 general order issued under (a)(iii) of this subsection is no longer  
17 effective; and

18 (v) Send notice to producers or their third-party representatives  
19 of fee amounts due consistent with either the general order issued  
20 under (a)(iii) of this subsection or rules adopted under (a)(iv) of  
21 this subsection.

22 (b) The department must:

23 (i) Apply any remaining annual payment funds from the current  
24 year to the annual payment for the coming year, if the collected  
25 annual payment exceeds the department's costs for a given year; and

26 (ii) Increase annual payments for the coming year to cover the  
27 department's costs, if the collected annual payment was less than the  
28 department's costs for a given year.

29 (c) ~~(By)~~ (i) Except as provided in (c)(ii) of this subsection,  
30 by April 1, 2022, and every April 1st thereafter, producers or their  
31 third-party representative must submit a fee payment as determined by  
32 the department under (a) of this subsection.

33 (ii) Producers of single-use plastic cups or products in plastic  
34 tubs or thermoform plastic containers, or their third-party  
35 representative must submit a fee payment as determined by the  
36 department under (a) of this subsection by April 1, 2023, and every  
37 April 1st thereafter.

38 (4) A producer of a beverage in a plastic beverage container must  
39 meet the following annual minimum postconsumer recycled content  
40 percentage on average for the total quantity of plastic beverage

1 containers, by weight, that are sold, offered for sale, or  
2 distributed in or into Washington by the producer effective:

3 (a) For beverages except wine in 187 milliliter plastic beverage  
4 containers and dairy milk:

5 (i) January 1, 2023, through December 31, 2025: No less than 15  
6 percent postconsumer recycled content plastic by weight;

7 (ii) January 1, 2026, through December 31, 2030: No less than 25  
8 percent postconsumer recycled content plastic by weight; and

9 (iii) On and after January 1, 2031: No less than 50 percent  
10 postconsumer recycled content plastic by weight.

11 (b) For wine in 187 milliliter plastic beverage containers and  
12 dairy milk:

13 (i) January 1, 2028, through December 31, 2030: No less than 15  
14 percent postconsumer recycled content plastic by weight;

15 (ii) January 1, 2031, through December 31, 2035: No less than 25  
16 percent postconsumer recycled content plastic by weight; and

17 (iii) On and after January 1, 2036: No less than 50 percent  
18 postconsumer recycled content plastic by weight.

19 (5) A producer of household cleaning and personal care products  
20 in plastic containers must meet the following annual minimum  
21 postconsumer recycled content percentage on average for the total  
22 quantity of plastic containers, by weight, that are sold, offered for  
23 sale, or distributed in or into Washington by the producer effective:

24 (a) January 1, 2025, through December 31, 2027: No less than 15  
25 percent postconsumer recycled content plastic by weight;

26 (b) January 1, 2028, through December 31, 2030: No less than 25  
27 percent postconsumer recycled content plastic by weight; and

28 (c) On and after January 1, 2031: No less than 50 percent  
29 postconsumer recycled content plastic by weight.

30 (6) A producer of plastic trash bags must meet the following  
31 annual minimum postconsumer recycled content percentage on average  
32 for the total quantity of plastic trash bags, by weight, that are  
33 sold, offered for sale, or distributed in or into Washington by the  
34 producer effective:

35 (a) January 1, 2023, through December 31, 2024: No less than 10  
36 percent postconsumer recycled content plastic by weight;

37 (b) January 1, 2025, through December 31, 2026: No less than 15  
38 percent postconsumer recycled content plastic by weight; and

39 (c) On and after January 1, 2027: No less than 20 percent  
40 postconsumer recycled content plastic by weight.

1       (7) A producer of a product in a plastic tub or thermoform  
2 plastic container must meet the following annual minimum postconsumer  
3 recycled content percentage on average for the total quantity of  
4 plastic tubs or thermoform plastic containers, by weight, that are  
5 sold, offered for sale, or distributed in or into Washington by the  
6 producer effective:

7       (a) January 1, 2026, through December 31, 2030: No less than 10  
8 percent postconsumer recycled content plastic by weight;

9       (b) On and after January 1, 2031: No less than 30 percent  
10 postconsumer recycled content plastic by weight.

11       (8) A producer of single-use plastic cups must meet the following  
12 annual minimum postconsumer recycled content percentage on average  
13 for the total quantity of single-use plastic cups, by weight, that  
14 are sold, offered for sale, or distributed in or into Washington by  
15 the producer effective:

16       (a) January 1, 2029, through December 31, 2030: No less than 15  
17 percent postconsumer recycled content plastic by weight; and

18       (b) On and after January 1, 2031: No less than 30 percent  
19 postconsumer recycled content plastic by weight.

20       (9)(a) Beginning January 1, 2024, or when rule making is  
21 complete, whichever is sooner, the department may, on an annual basis  
22 on January 1st, review and determine for the following year whether  
23 to adjust the minimum postconsumer recycled content percentage  
24 required for a type of container or product or category of covered  
25 products pursuant to subsection (4), (5), (~~(6)~~) (6), (7), or (8) of  
26 this section. The department's review may be initiated by the  
27 department or at the petition of a producer or a covered product  
28 manufacturing industry not more than once annually. When submitting a  
29 petition, producers or a producer manufacturing industry must provide  
30 necessary information that will allow the department to make a  
31 determination under (b) of this subsection.

32       (b) In making a determination pursuant to this subsection, the  
33 department must consider, at a minimum, all of the following factors:

34       (i) Changes in market conditions, including supply and demand for  
35 postconsumer recycled content plastics, collection rates, and bale  
36 availability both domestically and globally;

37       (ii) Recycling rates;

38       (iii) The availability of recycled plastic suitable to meet the  
39 minimum postconsumer recycled content requirements pursuant to  
40 subsection (4), (5), (~~(6)~~) (6), (7) or (8) of this section,



1 including the availability of high quality recycled plastic, and  
2 food-grade recycled plastic from recycling programs;

3 (iv) The capacity of recycling or processing infrastructure;

4 (v) The technical feasibility of achieving the minimum  
5 postconsumer recycled content requirements in covered products that  
6 are regulated under 21 C.F.R., chapter I, subchapter G, 7 U.S.C. Sec.  
7 136, 15 U.S.C. Sec. 1471-1477, 49 C.F.R. Sec. 178.33b, 49 C.F.R. Sec.  
8 173, 40 C.F.R. Sec. 152.10, 15 U.S.C. Sec. 1261-1278, 49 U.S.C. 5101  
9 et seq., 49 C.F.R. Sec. 178.509, 49 C.F.R. Sec. 179.522, 49 C.F.R.  
10 Sec. 178.600-609, and other federal laws; and

11 (vi) The progress made by producers in achieving the goals of  
12 this section.

13 (c) Under (a) of this subsection:

14 (i) The department may not adjust the minimum postconsumer  
15 recycled content requirements above the minimum postconsumer recycled  
16 content percentages for the year under review required pursuant to  
17 subsection (4), (5), ~~((6))~~ (6), (7), or (8) of this section.

18 (ii) For plastic household cleaning and personal care product  
19 containers, the department may not adjust the minimum postconsumer  
20 recycled content requirements above the minimum postconsumer recycled  
21 content percentages for the year under review required pursuant to  
22 subsection (5) of this section or below a minimum of 10 percent.

23 (iii) For plastic trash bags, the department may not adjust the  
24 minimum postconsumer recycled content requirements above the minimum  
25 postconsumer recycled content percentages for the year under review  
26 required pursuant to subsection (6) of this section or below the  
27 minimum percentage required in subsection (6)(a) of this section.

28 (d) A producer or the manufacturing industry for a covered  
29 product may appeal a decision by the department to adjust  
30 postconsumer recycled content percentages under (a) of this  
31 subsection or to temporarily exclude covered products from minimum  
32 postconsumer recycled content requirements under subsection ~~((8))~~  
33 (10) of this section to the pollution control hearings board within  
34 30 days of the department's determination.

35 ~~((8))~~ (10) The department must temporarily exclude from minimum  
36 postconsumer recycled content requirements for the upcoming year any  
37 types of covered products in plastic containers for which a producer  
38 annually demonstrates to the department by December 31st of a given  
39 year that the achievement of postconsumer recycled content  
40 requirements in the container material is not technically feasible in

1 order to comply with health or safety requirements of federal law,  
2 including the federal laws specified in subsection ~~((7))~~ (9) (b) (v)  
3 of this section. A producer must continue to register and report  
4 consistent with the requirements of this chapter for covered products  
5 temporarily excluded from minimum postconsumer recycled content  
6 requirements under this subsection.

7 ~~((9))~~ (11) A producer that does not achieve the postconsumer  
8 recycled content requirements established under this section is  
9 subject to penalties established in RCW 70A.245.040.

10 ~~((10))~~ (12) (a) A city, town, county, or municipal corporation  
11 may not implement local recycled content requirements for a covered  
12 product that is subject to minimum postconsumer recycled content  
13 requirements established in this section.

14 (b) A city, town, county, or municipal corporation may establish  
15 local purchasing requirements that include recycled content standards  
16 that exceed the minimum recycled content requirements established by  
17 this chapter for plastic household cleaning and personal care product  
18 containers or plastic trash bags purchased by a city, town, or  
19 municipal corporation, or its contractor.

20 ~~((11))~~ (13) The department may enter into contracts for the  
21 services required to implement this chapter and related duties of the  
22 department.

23 ~~((12))~~ (14) In-state distributors, wholesalers, and retailers  
24 in possession of covered products manufactured before the date that  
25 postconsumer recycled content requirements become effective may  
26 exhaust their existing stock through sales to the public.

27 **Sec. 9.** RCW 70A.245.030 and 2021 c 313 s 4 are each amended to  
28 read as follows:

29 (1) (a) Except as provided in (b) ~~((and)),~~ (c), (d), and (e) of  
30 this subsection, beginning April 1, 2024, each producer of covered  
31 products, individually or through a third party representing a group  
32 of producers, must provide an annual report to the department that  
33 includes the amount in pounds of virgin plastic and the amount in  
34 pounds of postconsumer recycled content by resin type used for each  
35 category of covered products that are sold, offered for sale, or  
36 distributed in or into Washington state, including the total  
37 postconsumer recycled content resins as a percentage of total weight.  
38 The report must be submitted in a format and manner prescribed by the  
39 department. A manufacturer may submit national data allocated on a

1 per capita basis for Washington to approximate the information  
2 required in this subsection if the producer or third-party  
3 representative demonstrates to the department that state level data  
4 are not available or feasible to generate.

5 (b) The requirements of (a) of this subsection apply to household  
6 cleaning and personal care products in plastic containers beginning  
7 April 1, 2026.

8 (c) The requirements of (a) of this subsection apply to wine in  
9 187 milliliter plastic beverage containers and dairy milk in plastic  
10 beverage containers beginning April 1, 2029.

11 (d) The requirements of (a) of this subsection apply to plastic  
12 tubs and thermoform plastic containers beginning April 1, 2027.

13 (e) The requirements of (a) of this subsection apply to single-  
14 use plastic cups beginning April 1, 2030.

15 (f) The department must post the information reported under this  
16 subsection on its website, except as provided in subsection (2) of  
17 this section.

18 (2) A producer that submits information or records to the  
19 department under this chapter may request that the information or  
20 records be made available only for the confidential use of the  
21 department, the director, or the appropriate division of the  
22 department. The director of the department must give consideration to  
23 the request and if this action is not detrimental to the public  
24 interest and is otherwise in accordance with the policies and  
25 purposes of chapter 43.21A RCW, the director must grant the request  
26 for the information to remain confidential as authorized in RCW  
27 43.21A.160.

28 NEW SECTION. Sec. 10. Sections 1 through 6 of this act  
29 constitute a new chapter in Title 70A RCW.

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