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**SENATE BILL 5717**

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**State of Washington**

**67th Legislature**

**2022 Regular Session**

**By** Senators Stanford and Randall

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1 AN ACT Relating to compost products; amending RCW 39.30.040 and  
2 70A.455.090; adding new sections to chapter 43.19A RCW; creating a  
3 new section; and providing an expiration date.

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

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

7 (1) By January 1, 2023, each local government with curbside  
8 organics collection service available to residents within the  
9 jurisdiction shall:

10 (a) Adopt a compost procurement ordinance to implement RCW  
11 43.19A.120; and

12 (b) Develop a compost procurement plan to meet the requirements  
13 of subsection (2) of this section and RCW 43.19A.120.

14 (2) Local governments shall implement the compost procurement  
15 plan in subsection (1)(b) of this section with reasonable efforts to  
16 annually purchase amounts of finished compost product by the  
17 following dates:

18 (a) By January 1, 2024, 25 percent of the amount of organic  
19 materials collected through the curbside organics collection service  
20 and delivered to the compost processor;

1 (b) By January 1, 2026, 50 percent of the amount of organic  
2 materials collected through the curbside organics collection service  
3 and delivered to the compost processor; and

4 (c) By January 1, 2028, 70 percent of the amount of organic  
5 materials collected through the curbside organics collection service  
6 and delivered to the compost processor.

7 (3) Local governments shall give priority to purchasing compost  
8 products from companies that produce compost products locally, are  
9 certified by a nationally recognized organization, and produce  
10 compost products that are derived from municipal solid waste compost  
11 programs and meet quality standards adopted by rule by the department  
12 of ecology.

13 (4) Local governments may enter into collective purchasing  
14 agreements if doing so is more cost-effective or efficient.

15 (5) Nothing in this act requires a compost processor to enter  
16 into a purchasing agreement with a local government, sell finished  
17 compost to meet this requirement, or require a compost processor to  
18 accept or process food waste.

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

21 (1) Whenever a unit of local government is required to make  
22 purchases from the lowest bidder or from the supplier offering the  
23 lowest price for the items desired to be purchased, the unit of local  
24 government may, at its option when awarding a purchase contract, take  
25 into consideration tax revenue it would receive from purchasing the  
26 supplies, materials, or equipment from a supplier located within its  
27 boundaries. The unit of local government must award the purchase  
28 contract to the lowest bidder after such tax revenue has been  
29 considered. However, any local government may allow for preferential  
30 purchase of products made from recycled materials or products that  
31 may be recycled or reused. Any local government may allow for  
32 preferential purchase of compost products to meet the requirements of  
33 RCW 43.19A.120. Any unit of local government which considers tax  
34 revenue it would receive from the imposition of taxes upon a supplier  
35 located within its boundaries must also consider tax revenue it would  
36 receive from taxes it imposes upon a supplier located outside its  
37 boundaries.

38 (2) A unit of local government may award a contract to a bidder  
39 submitting the lowest bid before taxes are applied. The unit of local

1 government must provide notice of its intent to award a contract  
2 based on this method prior to bids being submitted. For the purposes  
3 of this subsection (2), "taxes" means only those taxes that are  
4 included in "tax revenue" as defined in this section.

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

7 (a) "Tax revenue" means sales taxes that units of local  
8 government impose upon the sale of supplies, materials, or equipment  
9 from the supplier to units of local government, and business and  
10 occupation taxes that units of local government impose upon the  
11 supplier that are measured by the gross receipts of the supplier from  
12 the sale.

13 (b) "Unit of local government" means any county, city, town,  
14 metropolitan municipal corporation, public transit benefit area,  
15 county transportation authority, or other municipal or quasi-  
16 municipal corporation authorized to impose sales and use taxes or  
17 business and occupation taxes.

18 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.19A  
19 RCW to read as follows:

20 Any contract by a state agency, local government, or public  
21 school must require the use of compost products to the maximum extent  
22 economically feasible to meet the requirements established by RCW  
23 43.19A.120.

24 **Sec. 4.** RCW 70A.455.090 and 2020 c 20 s 1448 are each amended to  
25 read as follows:

26 (1) The state, acting through the attorney general or the  
27 department of ecology, and cities and counties have concurrent  
28 authority to enforce this chapter and to collect civil penalties for  
29 a violation of this chapter, subject to the conditions in this  
30 section. An enforcing government entity may impose a civil penalty in  
31 the amount of up to two thousand dollars for the first violation of  
32 this chapter, up to five thousand dollars for the second violation of  
33 this chapter, and up to ten thousand dollars for the third and any  
34 subsequent violation of this chapter. If a manufacturer or supplier  
35 has paid a prior penalty for the same violation to a different  
36 government entity with enforcement authority under this subsection,  
37 the penalty imposed by a government entity is reduced by the amount  
38 of the payment.

1 (2) Any civil penalties collected pursuant to this section must  
2 be paid to the office of the city attorney, city prosecutor, district  
3 attorney, or attorney general, whichever office brought the action.  
4 Penalties collected by the attorney general on behalf of the state  
5 must be deposited in the compostable products revolving account  
6 created in RCW 70A.455.110.

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

10 (4) In addition to penalties recovered under this section, the  
11 enforcing government entity may recover reasonable enforcement costs  
12 and attorneys' fees from the liable manufacturer or supplier.

13 (5) The department of ecology, with the assistance of the  
14 attorney general, is authorized to bring any appropriate action in  
15 the name of the people of the state of Washington as may be necessary  
16 to carry out the provisions of this chapter.

17 NEW SECTION. **Sec. 5.** (1)(a) Subject to the availability of  
18 amounts appropriated for this specific purpose, the department of  
19 agriculture must establish and implement a three-year compost  
20 reimbursement pilot program to reimburse farming operations in the  
21 state for purchasing and using compost products from facilities with  
22 solid waste handling permits, including transportation, equipment,  
23 spreading, and labor costs. The grant reimbursements under the pilot  
24 program begin July 1, 2023, and conclude June 30, 2026.

25 (b) For the purposes of this section, "farming operation" means:  
26 A commercial agricultural, silvicultural, or aquacultural facility or  
27 pursuit, including the care and production of livestock and livestock  
28 products, poultry and poultry products, apiary products, and plant  
29 and animal production for nonfood uses; the planting, cultivating,  
30 harvesting, and processing of crops; and the farming or ranching of  
31 any plant or animal species in a controlled salt, brackish, or  
32 freshwater environment.

33 (2) To be eligible to participate in the reimbursement pilot  
34 program, a farming operation must complete an eligibility review with  
35 the department of agriculture prior to transporting or applying any  
36 compost products for which reimbursement will be sought under this  
37 section. The purpose of the review is for the department of  
38 agriculture to ensure that the proposed transport and application of  
39 compost products is consistent with the department's agricultural

1 pest control rules in chapter 16-470 WAC. A farming operation must  
2 also verify that it will allow soil sampling to be conducted by the  
3 department of agriculture upon request during the duration of the  
4 pilot program as necessary to establish a baseline of soil quality  
5 and carbon storage and for subsequent department of agriculture  
6 evaluations to assist the department's reporting requirements under  
7 subsection (9) of this section.

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

23 (a) Its own compost products;

24 (b) Compost products that it has transferred, or intends to  
25 transfer, to another individual or entity, whether or not for  
26 compensation; or

27 (c) Compost products that were not purchased from a facility with  
28 a solid waste handling permit.

29 (4) A farming operation may submit only one application per  
30 fiscal year for purchases made and usage costs incurred during the  
31 fiscal year that begins on July 1st and ends on June 30th of each  
32 fiscal year in which the pilot program is in effect. Applications for  
33 reimbursement must be filed before the end of the fiscal year in  
34 which purchases were made and usage costs incurred.

35 (5) The department of agriculture must distribute reimbursement  
36 funds, subject to the following limitations:

37 (a) A farming operation is not eligible to receive reimbursement  
38 if the farming operation's application was not found eligible for  
39 reimbursement by the department of agriculture prior to transport or  
40 use under subsection (2) of this section;

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

5 (c) A farming operation is not eligible to receive more than  
6 \$10,000 per fiscal year;

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

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

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

18 (7) There is established within the department of agriculture a  
19 compost reimbursement pilot program manager position. The compost  
20 reimbursement pilot program manager must possess knowledge and  
21 expertise in the area of program management necessary to carry out  
22 the duties of the position, which are to:

23 (a) Facilitate the division and distribution of available costs  
24 for reimbursement; and

25 (b) Manage the day-to-day coordination of the compost  
26 reimbursement pilot program.

27 (8) Any action taken by the department of agriculture pursuant to  
28 this section is exempt from the rule-making requirements of chapter  
29 34.05 RCW.

30 (9) The department of agriculture must submit an annual report to  
31 the appropriate committees of the legislature by January 15th of each  
32 year of the program, with a final report due January 15, 2026. The  
33 report must include:

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

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

38 (c) An evaluation of the benefits and costs to the state of  
39 continuing, expanding, or furthering the strategies explored in the  
40 pilot program.

1 (10) This section expires June 30, 2027.

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