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## Environment & Energy Committee

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### HB 1085

**Brief Description:** Reducing plastic pollution.

**Sponsors:** Representatives Mena, Bateman, Reed, Fitzgibbon, Ramel, Peterson, Pollet, Berry, Walen, Doglio, Macri, Simmons, Thai, Cortes, Kloba and Ormsby.

#### Brief Summary of Bill

- Prohibits the sale, distribution, and installation of expanded or extruded plastic foam overwater structures, and of expanded or extruded plastic foam blocks and floats used in overwater structures.
- Prohibits lodging establishments from providing personal health or beauty products in certain plastic containers or wrappers, effective July 1, 2025, for lodging establishments with 50 or more lodging units, and July 1, 2026, for smaller lodging establishments.
- Requires any construction in which a drinking fountain is required under the State Building Code to also require the provision of a bottle filling station for each required drinking fountain.

**Hearing Date:** 1/10/23

**Staff:** Jacob Lipson (786-7196).

#### **Background:**

##### Regulation of Plastic Products.

Since 1992, state law has required plastic bottles and rigid plastic containers to be labeled with a code identifying the type of resin used to produce the container. The types of plastic resin are categorized as:

1. polyethylene terephthalate (PETE);

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2. high-density polyethylene (HDPE);
3. vinyl (V);
4. low-density polyethylene (LDPE);
5. polypropylene (PP);
6. polystyrene (PS); and
7. other.

A variety of plastic products can be made from plastic foams, and plastic foams can be made from a variety plastic resin types.

Legislation enacted in 2020 and 2021 established a variety of restrictions on plastic products:

- retail establishment have been prohibited from providing single-use plastic carryout bags since 2021;
- expanded PS void- filling packaging products may not be sold or distributed in Washington beginning June 1, 2023;
- certain expanded PS portable cold storage containers and food service products are prohibited from being sold or distributed in Washington beginning June 1, 2024;
- food service businesses may provide single use food service products, including plastic single use food service products, only if a consumer affirms that it wants the items, and utensils provided by a food service business may not be bundled or packaged in plastic in such a way that the consumer is unable to take only the type of utensil desired without taking other utensils.

Penalties for violations of these requirements are appealable to the Pollution Control Hearings Board.

#### Water Pollution Regulations and Programs.

Washington law authorizes the Department of Ecology (Ecology) to implement the federal Clean Water Act's discharge program and state water pollution control laws. Through these programs, Ecology is authorized to issue federal and state water quality permits for persons that discharge to state waters.

The Hydraulic Project Approval (HPA) program is a permitting process managed by the Washington Department of Fish and Wildlife (WDFW). Any activity that will use, divert, obstruct, or change the natural flow or bed of any of the salt or freshwaters of the state must first obtain an HPA from the WDFW. Through the HPA process, the WDFW specifically analyzes and conditions projects based on the anticipated effect on fish life.

The Department of Natural Resources (DNR) has responsibility for coordinating the cleanup, with other state agencies, of state and aquatic land pollution from plastic and other marine debris.

#### State Building Code Water Bottle Filling Station Provisions.

The State Building Code Council (SBCC) is a state agency that adopts and triennially updates

the State Building Code (Code). The Code adopted by the SBCC establishes the minimum building, mechanical, fire, plumbing, and energy code requirements applicable to the construction of buildings.

Provisions of the Code adopted by the SBCC currently require buildings classified for educational occupancy (Group E buildings) with an occupant load of 30 persons to include a minimum of one bottle filling station provided on each floor of the building. The bottle filling station may be integral to the drinking fountain. In addition, for all types of occupancies that require more than two drinking fountains per floor or secured area, the Code authorizes bottle filling stations to be substituted for up to 50 percent of the required number of fountains.

### **Summary of Bill:**

#### Water Bottle Filling Stations under the State Building Code.

In any construction subject to the State Building Codes (Code) in which a drinking fountain is required by a Code, the rules adopted by the State Building Code Council (SBCC) must require, for each required drinking fountain, the provision of a bottle filling station or a combined drinking fountain and bottle filling station. The SBCC's rules must take effect by July 1, 2026, and may be updated periodically.

#### Plastic Health or Beauty Product Containers and Wrappers.

Lodging establishments are prohibited from providing shampoo, hair conditioner, soap, gel, body wash, lotion, hand sanitizer, shower caps, or cotton swaps in a small plastic container with a capacity of less than six ounces, a plastic wrapper, or other plastic packaging. Lodging establishments subject to these restrictions include hotels, motels, resorts, inns, timeshares, short-term rentals, and vacation rentals, but do not include hospitals, retirement communities, prisons, jails, homeless shelters, or long-term rentals, among other types of establishments. Refillable bulk containers are not subject to these restrictions. To accommodate persons who may have mobility or other accessibility challenges, lodging establishments may have personal health and beauty products in restricted containers available to be provided upon request. These restrictions take effect January 1, 2025, for lodging establishments with 50 or more units, and January 1, 2026, for lodging establishments with fewer than 50 units.

The Department of Ecology (Ecology) may adopt rules to implement, administer, and enforce these requirements. Violations of these requirements are subject to civil penalties of up to \$500 for each day of a first violation and up to \$2,000 for each day of subsequent violations. Penalties may be appealed to the Pollution Control Hearings Board (PCHB). Enforcement by Ecology must primarily be based on complaints filed with Ecology, and Ecology must establish a complaint-filing forum and a website with education and outreach resources that provides information to lodging establishments and consumers.

#### Expanded or Extruded Foam Overwater Structures, Blocks, and Floats.

Beginning June 1, 2024, it is prohibited to sell, distribute, install, or arrange for the installation of overwater structures containing expanded or extruded plastic foam, or of expanded or extruded

foam blocks or floats used in overwater structures. Floating homes and floating on-water residences are excluded from these restrictions, but docks, floats, walkways, and other accessory overwater structures associated with floating homes or on-water residences are subject to these restrictions.

Ecology may adopt rules to implement, administer, and enforce these requirements. Persons in violation of these requirements are subject to civil penalties of up to \$10,000 per violation, with penalties appealable to the PCHB, and collected penalties being deposited in the model toxics control operating account.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.