
HOUSE BILL 1900

State of Washington

68th Legislature

2024 Regular Session

By Representatives Fey, Reeves, Walen, Rule, Chapman, Bronoske, Wylie, Low, Ryu, Leavitt, Ramos, Callan, Kloba, Berg, Thai, Pollet, and Shavers

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1 AN ACT Relating to implementing strategies to achieve higher
2 recycling rates within Washington's existing solid waste management
3 system; amending RCW 70A.245.010, 70A.245.020, 70A.245.030,
4 70A.245.040, 70A.245.060, 70A.245.090, 70A.245.110, 70A.245.120,
5 70A.245.100, 70A.245.110, and 70A.65.260; reenacting and amending RCW
6 43.21B.110; adding new sections to chapter 70A.245 RCW; adding a new
7 chapter to Title 70A RCW; creating new sections; and prescribing
8 penalties.

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

10 **PART 1**

11 **INTENT**

12 NEW SECTION. **Sec. 101.** INTENT. (1) The legislature finds that:

13 (a) Washington state has been a leader in recycling policy,
14 reaching the goal of 50 percent recycling set by the legislature in
15 RCW 70A.205.005. The legislature further finds that, since meeting
16 the state's goal to achieve a 50 percent recycling rate, global
17 market conditions have caused the recycling rate to fall below 50
18 percent.

19 (b) New goals and target recycling rates must be established and
20 a comprehensive needs assessment is necessary to implement

1 improvements to Washington's existing recycling system to reach those
2 goals.

3 (c) 88 percent of Washington residents living in single-family
4 homes and 77 percent living in multifamily residences have access to
5 curbside recycling services through a robust regulatory structure
6 that ensures equal access to services at affordable rates.

7 (d) The investments in infrastructure by Washington companies has
8 led to the development of materials sorting and processing superior
9 to most other states.

10 (2) It is the intent of the legislature that:

11 (a) Producers increase the use of postconsumer recycled content
12 in their products, to achieve the goals in RCW 70A.520.010(2) and to
13 create strong markets for recycled materials and achieve
14 environmental benefits; and

15 (b) Through design and innovation, producers will reduce the use
16 and climate impact of consumer packaging and paper products and
17 increase the use of postconsumer recycled content.

18 (3)(a) The legislature finds that contamination in the recycling
19 stream is a major impediment to higher recovery rates.

20 (b) It is the intent of the legislature to implement proven
21 strategies to address these challenges, including:

22 (i) The establishment of a single statewide list of materials for
23 recyclables collected through Washington's curbside recycling system
24 to reduce confusion and increase participation;

25 (ii) A robust needs assessment unique to Washington state to
26 determine costs and investments necessary to achieve a 60 percent
27 overall recycling rate for packaging;

28 (iii) Restrictions on the use of recycling symbols on packaging
29 that cannot be readily recycled through Washington's recycling
30 system; and

31 (iv) The expansion of the successful recycled content
32 requirements to ensure more materials are manufactured with
33 postconsumer material.

34 (4) Finally, it is the intent of the legislature that Washington
35 should maintain the successful public-private partnership between
36 state, local government, and solid waste and recycling service
37 providers. The legislature does not intend to diminish or displace
38 the primary role of the utilities and transportation commission and
39 local governments in regulating or contracting directly with service
40 providers for the curbside collection of residential recyclables.

1 Local governments maintain their existing authority to collect,
2 contract for collection with solid waste and recycling service
3 providers, or defer to solid waste collection services regulated by
4 the utilities and transportation commission.

5 **PART 2**

6 **TRUTH IN LABELING, RATES STUDY, MATERIALS LIST, AND NEEDS ASSESSMENT**

7 NEW SECTION. **Sec. 201.** DEFINITIONS. The definitions in this
8 section apply throughout this chapter unless the context clearly
9 requires otherwise.

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

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

18 (2) "Consumable product" means a commodity that is intended to be
19 used and not disposed of.

20 (3) "Covered product" means packaging and paper products sold or
21 supplied to consumers for personal, noncommercial use.

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

23 (5) "Glass" means a covered product made of soda lime glass.

24 (6) "Material category" means a group of covered products that
25 have similar properties such as chemical composition, shape, or other
26 characteristics.

27 (7) "Overburdened community" means an overburdened community
28 identified and prioritized by the department under RCW
29 70A.02.050(1)(a).

30 (8)(a) "Packaging" means a material, substance, or object that
31 is:

32 (i) Used to protect, contain, transport, or serve an item;

33 (ii) Sold or supplied to consumers expressly for the purpose of
34 protecting, containing, transporting, or serving items;

35 (iii) Attached to an item or its container for the purpose of
36 marketing or communicating information about the item;

37 (iv) Supplied at the point of sale to facilitate the delivery of
38 the item; or

1 (v) Supplied to or purchased by consumers expressly for the
2 purpose of facilitating food or beverage consumption that is
3 ordinarily discarded by consumers after a single use or short-term
4 use, whether or not it could be reused.

5 (b) "Packaging" does not include:

6 (i) Materials intended to be used for the long-term storage or
7 protection of a durable product, that is intended to transport,
8 protect, or store the durable product on an ongoing basis, and that
9 can be expected to be usable for that purpose for a period of at
10 least five years;

11 (ii) For purposes of this chapter only, materials used to package
12 pesticide products regulated by the federal insecticide, fungicide,
13 and rodenticide act, 7 U.S.C. Sec. 136 et seq., that are in direct
14 contact with the regulated product. This exemption does not include
15 products regulated by the United States food and drug administration;

16 (iii) Liquefied petroleum gas containers that are designed to be
17 refilled and reused;

18 (iv) (A) Packaging for drugs that are used for animal medicines
19 including parasiticide products for animals; and (B) packaging for
20 products intended for animals that are regulated as animal drugs,
21 biologics, parasiticides, medical devices, or diagnostics used to
22 treat, or administered to, animals under the federal food, drug, and
23 cosmetic act, 21 U.S.C. Sec. 301 et seq., the federal insecticide,
24 fungicide, and rodenticide act, 7 U.S.C. Sec. 136 et seq., or the
25 federal virus-serum-toxin act, 21 U.S.C. Sec. 151 et seq., as
26 amended;

27 (v) Packaging for products that are regulated as a medical device
28 or drug by the United States food and drug administration under the
29 federal food, drug, and cosmetic act, 21 U.S.C. Sec. 321 et seq.; and

30 (vi) Packaging related to containers of architectural paint that
31 has been collected by a stewardship organization under the program
32 established in chapter 70A.515 RCW.

33 (9) "Paper product" means paper sold or supplied including
34 flyers, brochures, booklets, catalogs, magazines, copy paper,
35 printing paper, and all other paper materials except for: (a) Bound
36 books; (b) conservation grade and archival grade paper; (c)
37 newspapers; (d) paper designed for use in building construction; and
38 (e) paper products that, by any common and foreseeable use, could
39 reasonably be anticipated to become unsafe or unsanitary to handle.

1 (10) (a) "Producer" means the following person responsible for
2 compliance with covered product registration and reporting
3 requirements under this chapter for a covered product sold, offered
4 for sale, or distributed in or into this state:

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

8 (ii) If the covered product is manufactured by a person other
9 than the brand owner, the producer is the person who is the licensee
10 of a brand or trademark under which a covered product is sold,
11 offered for sale, or distributed in or into this state, whether or
12 not the trademark is registered in this state, unless the
13 manufacturer or brand owner of the covered product has agreed to
14 accept responsibility under this chapter; or

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

19 (b) "Producer" does not include:

20 (i) Government agencies, municipalities, or other political
21 subdivisions of the state;

22 (ii) Registered 501(c) (3) charitable organizations and 501(c) (4)
23 social welfare organizations; or

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

26 (A) Less than one ton of covered products each year; or

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

29 (11) "Vulnerable population" has the same meaning as in RCW
30 70A.02.010.

31 NEW SECTION. **Sec. 202.** TRUTH IN LABELING. (1) Beginning January
32 1, 2028, a producer may not offer for sale, sell, or distribute in or
33 into Washington, including by means of remote sale, any covered
34 product that makes a deceptive or misleading claim about its
35 recyclability.

36 (a) A product or packaging that displays a chasing arrows symbol,
37 a chasing arrows symbol surrounding a resin identification code, or
38 any other symbol or statement indicating that it is recyclable or
39 otherwise directing the consumer to recycle the product or packaging,

1 is deemed to be a deceptive or misleading claim under this section
2 unless the product or packaging is considered recyclable in the state
3 under section 204 of this act and is of a material type and form that
4 routinely becomes feedstock used in the production of new products or
5 packaging or is exempt under (b) of this subsection.

6 (b) (a) of this subsection does not apply to products or
7 packaging:

8 (i) For which a symbol or statement described in (a) of this
9 subsection is required by another state or by a federal law or agency
10 in the United States at the time that the claim is made;

11 (ii) For which a symbol or statement described in (a) of this
12 subsection is part of a widely adopted and standardized third-party
13 labeling system;

14 (iii) For which a chasing arrows symbol is used in combination
15 with a clearly visible line placed at a 45-degree angle over the
16 chasing arrows symbol to convey that an item is not recyclable;

17 (iv) Manufactured up to 18 months after the date the department
18 publishes the first material characterization study required under
19 section 203 of this act, or before January 1, 2028, whichever is
20 later; or

21 (v) Any product or packaging manufactured up to 18 months after
22 the date the department updates the material characterization study
23 under section 203 of this act, if the product or packaging satisfied
24 or, for a new product or packaging, would have satisfied, the
25 requirements to be considered recyclable in the state under section
26 204 of this act before the publication of the updated study.

27 (c) For a product or packaging that is not considered to be
28 recyclable in the state under section 204 of this act, all the
29 following apply:

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

33 (ii) If a product or packaging has multiple material types, a
34 chasing arrows symbol or statement indicating recyclability may be
35 displayed on the external packaging that is considered to be
36 recyclable in the state under section 204 of this act if the chasing
37 arrows symbol or statement makes clear in the same or greater font,
38 font size, or symbol size which other components of the product or
39 packaging are not recyclable; and

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 (2) At such time as an enforceable federal statutory or
6 regulatory standard is implemented for labeling packaging related to
7 recyclability, within 180 days the department shall review criteria
8 under this chapter with federal standards or requirements. Upon
9 completing its review, the department may adopt the federal criteria
10 in lieu of the requirements of this section.

11 (3) As of the effective date of this section, a city, town, or
12 county may not enact an ordinance restricting the distribution or
13 sale of covered products due to displaying a chasing arrows symbol, a
14 chasing arrows symbol surrounding a resin identification code, or any
15 other symbol or statement indicating that it is recyclable if the
16 covered product is, at the time that the claim is made:

17 (a) Required to display the symbol or statement by another state
18 or by a federal law or agency;

19 (b) Part of a widely adopted and standardized third-party
20 labeling system:

21 (i) For which a symbol or statement described in subsection
22 (1)(a) of this section is in compliance with the federal trade
23 commission green guides; or

24 (ii) For which a symbol or statement described in subsection
25 (1)(a) of this section incorporates by reference the ASTM standards
26 for coding resin; or

27 (c) Using a chasing arrows symbol in combination with a clearly
28 visible line placed at a 45-degree angle over the chasing arrows
29 symbol to convey that an item is not recyclable.

30 NEW SECTION. **Sec. 203.** MATERIAL CHARACTERIZATION STUDY. (1) By
31 January 1, 2027, the department shall produce a material
32 characterization study to provide information to the public
33 sufficient for evaluating whether a product or packaging is
34 recyclable in the state according to the criteria set forth in
35 section 204 of this act and are of material types and forms that
36 routinely become feedstock used in the production of new products or
37 packaging.

38 (a) The department shall conduct and publish on its website a
39 characterization study of material types and forms that are

1 collected, sorted, sold, or transferred by facilities that process
2 recyclable materials from curbside recycling programs and other solid
3 waste facilities deemed appropriate by the department for inclusion
4 in the study.

5 (b) The material characterization study must:

6 (i) Use data from statistically valid and representative samples
7 of materials collected from curbside recycling programs in the state
8 analyzed using industry standard methodologies;

9 (ii) Identify what material types and forms are actively sorted
10 for recycling, and not considered contaminants, by included
11 operations or facilities;

12 (iii) Identify what material types and forms are not sorted for
13 recycling, and are considered contaminants, by included operations or
14 facilities; and

15 (iv) Identify how the material collected or processed by the
16 operations and facilities was collected.

17 (2) The department shall update the material characterization
18 study required under this section no less often than every five
19 years, with the first update being issued by the department in 2030.

20 (3) For each material characterization study conducted under this
21 section, the department shall publish on its website the preliminary
22 findings of the study and conduct a public meeting to present the
23 preliminary findings and receive public comments. The public meeting
24 must occur at least 30 days after the department publishes the
25 preliminary findings. After receiving and considering public
26 comments, and within 90 days of the public meeting, the department
27 shall finalize and publish on its website the findings of the study.

28 (4) The department may publish additional information that was
29 not available at the time of the most recent periodic material
30 characterization study regarding the appropriate characterization of
31 material types and forms.

32 NEW SECTION. **Sec. 204.** RECYCLABILITY DETERMINATIONS. (1)(a) A
33 product or packaging is considered recyclable in the state if, based
34 on information published by the department under section 203 of this
35 act, the product or packaging is of a material type and form that
36 meets both of the following requirements:

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

1 (ii) The material type and form are sorted into defined streams
2 for recycling processes by large volume transfer or processing
3 facilities, as provided in chapter 70A.205 RCW, that process
4 materials and collectively serve at least 60 percent of recycling
5 programs statewide, with the defined streams sent to and reclaimed at
6 a reclaiming facility consistent with the requirements of chapter
7 70A.205 RCW.

8 (b) The department may adopt rules modifying the requirement to
9 encompass transfer or processing facilities other than large volume
10 transfer or processing facilities as the department deems appropriate
11 for achieving the purposes of this section.

12 (2) A product or packaging is not considered recyclable in the
13 state unless the product or packaging meets all the following
14 criteria, as applicable:

15 (a) For plastic packaging, the plastic packaging is designed to
16 not include any components, inks, adhesives, or labels that prevent
17 the recyclability of the packaging according to the association of
18 plastic recyclers design guide published by the association of
19 plastic recyclers; and

20 (b) For plastic products and nonplastic products and packaging,
21 the product or packaging is designed to ensure recyclability and does
22 not include any components, inks, adhesives, or labels that prevent
23 the recyclability of the product or packaging.

24 (3) A product or packaging is recyclable in the state if the
25 product or packaging has a demonstrated recycling rate of at least 75
26 percent, meaning that not less than 75 percent of the product or
27 packaging sorted and aggregated in the state is reprocessed into new
28 products or packaging.

29 (4) Before January 1, 2033, a product or packaging not collected
30 under a curbside collection program is recyclable in the state if the
31 noncurbside collection program recovers at least 60 percent of the
32 product or packaging in the program and the material has sufficient
33 commercial value to be marketed for recycling and be transported at
34 the end of its useful life to a transfer, processing, or recycling
35 facility to be sorted and aggregated into defined streams by material
36 type and form.

37 (5) After January 1, 2033, a product or packaging not collected
38 under a curbside collection program is recyclable in the state if the
39 noncurbside collection program recovers at least 75 percent of the
40 product or packaging in the program and the material has sufficient

1 commercial value to be marketed for recycling and be transported at
2 the end of its useful life to a transfer, processing, or recycling
3 facility to be sorted and aggregated into defined streams by material
4 type and form.

5 (6) A product or packaging is recyclable in the state if the
6 product or packaging is part of, and in compliance with, a program
7 established under state or federal law on or after January 1, 2026,
8 governing the recyclability or disposal of that product or packaging
9 if the director of the department determines that the product or
10 packaging will not increase contamination of curbside recycling or
11 deceive consumers as to the recyclability of the product or
12 packaging.

13 (7) The information published by the department under section 203
14 of this act does not limit the discretion of a local government under
15 existing law to decide whether, and to what extent, a material type
16 or form is accepted by a local recycling program.

17 NEW SECTION. **Sec. 205.** ACTIVITIES TO SUPPORT FUTURE INCREASES
18 IN RECOVERY RATES. (1) To inform the future development of strategies
19 to increase recovery rates consistent with the goals established in
20 subsection (2) of this section, the department must:

21 (a) Identify a statewide list of materials suitable for curbside
22 collection services and a statewide list of materials suitable for
23 drop-off collection, consistent with section 207 of this act, to be
24 completed by October 1, 2025;

25 (b) Complete a statewide needs assessment that must use the
26 recycling rates from the department's *December 2023 Washington*
27 *Recycling, Reuse, and Source Reduction Target Study and Community*
28 *Input Process*, and be carried out by a third-party consultant
29 selected by the department, consistent with section 208 of this act,
30 and completed by October 1, 2026; and

31 (c) Begin overseeing the registration and data reporting of
32 producers of packaging, consistent with section 209 of this act.

33 (2) (a) A goal is established for the state to achieve a recycling
34 rate of 60 percent for covered products. The department must, in
35 consultation with the advisory committee established in section 211
36 of this act, identify a methodology for calculating progress towards
37 this goal as part of its duties under section 208 of this act, and
38 must begin tracking and periodically making public the state's

1 progress towards this goal beginning in the year following the
2 initial reporting of data by producers under section 209 of this act.

3 (b) (i) A goal is established for the state to reduce the sale or
4 use of packaging that is not determined to be recyclable under
5 section 204 of this act by:

6 (A) 50 percent by the year 2030; and

7 (B) 75 percent by the year 2035.

8 (ii) The department must measure progress toward the achievement
9 of the goals established in (b) (i) of this subsection in conjunction
10 with the update to each material characterization study it completes
11 consistent with section 203(2) of this act.

12 (c) The goals established in this subsection must be used to
13 inform the statewide needs assessment in section 208 of this act.

14 NEW SECTION. **Sec. 206.** PERFORMANCE RATES STUDY. For purposes of
15 implementing this chapter, the department must, where appropriate,
16 use and rely on the department's *December 2023 Washington Recycling,*
17 *Reuse, and Source Reduction Target Study and Community Input Process.*

18 NEW SECTION. **Sec. 207.** RECYCLABLE MATERIALS SUITABLE FOR
19 COLLECTION. (1)(a) By October 1, 2025, the department must develop
20 and publish a:

21 (i) List of recyclable materials suitable for curbside collection
22 from residents in single-family and multifamily residences; and

23 (ii) Separate list of materials suitable for residential drop-off
24 collection.

25 (b) The department must review and update the lists in (a) of
26 this subsection by October 1, 2030, and no less often than every five
27 years thereafter. During the review and update of the lists, the
28 department must newly review each material included on the previous
29 versions of the lists using the factors described in subsection (4)
30 of this section, and may only continue to include materials on a list
31 after considering the factors described in subsection (4) of this
32 section.

33 (2) The initial list of materials suitable for curbside
34 collection developed and published under this section must include
35 the following materials:

36 (a) Newspaper;

37 (b) Paperboard and chipboard;

38 (c) Loose paper;

- 1 (d) Corrugated cardboard;
- 2 (e) Magazines;
- 3 (f) Envelopes;
- 4 (g) Aluminum cans;
- 5 (h) Tin or steel cans;
- 6 (i) High density polyethylene plastic containers; and
- 7 (j) Polyethylene terephthalate containers.
- 8 (3) The initial list of materials suitable for drop-off
- 9 residential collection must include the following materials:
- 10 (a) Glass; and
- 11 (b) Flexible plastic.
- 12 (4) In addition to the materials identified under subsections (2)
- 13 and (3) of this section, the department may identify additional
- 14 materials for inclusion on a list or remove materials from inclusion
- 15 on a list based on consultation with the stakeholder advisory
- 16 committee established in section 211 of this act, and after
- 17 considering the following factors:
- 18 (a) The stability, maturity, accessibility, and viability of
- 19 responsible end markets;
- 20 (b) Economic factors;
- 21 (c) Environmental factors from a life-cycle perspective;
- 22 (d) The material's compatibility with existing recycling
- 23 infrastructure;
- 24 (e) The amount of the material available;
- 25 (f) The ability for waste generators to easily identify and
- 26 properly prepare the material;
- 27 (g) The practicalities of sorting and storing the material;
- 28 (h) Contamination;
- 29 (i) Environmental health and safety considerations; and
- 30 (j) The anticipated yield loss for the material during the
- 31 recycling process.

32 NEW SECTION. **Sec. 208.** STATEWIDE NEEDS ASSESSMENT. (1) The

33 statewide needs assessment must be consistent with the following

34 requirements:

- 35 (a) The final scope of the statewide needs assessment must be
- 36 determined after considering comments and recommendations from
- 37 stakeholders, each jurisdiction planning under chapter 70A.205 RCW,
- 38 and the advisory committee established in section 211 of this act;
- 39 and

1 (b) Stakeholders, jurisdictions planning under chapter 70A.205
2 RCW, and the advisory committee must have the opportunity to review
3 and comment on the draft statewide needs assessment at least 90 days
4 prior to its completion.

5 (2) The statewide needs assessment must be:

6 (a) Informed by the findings and recommendations of the 2023
7 performance rates study identified in section 206 of this act and
8 rates and other comments suggested by stakeholders and the advisory
9 committee;

10 (b) Limited to covered products collected from residents in
11 single-family and multifamily residences included on the list
12 developed and published by the department in section 207 of this act;

13 (c) Completed only after individual consultation with each
14 jurisdiction planning under chapter 70A.205 RCW; and

15 (d) Accepted from the selected consultant as complete by the
16 department.

17 (3) The statewide needs assessment must:

18 (a) For each jurisdiction planning under chapter 70A.205 RCW,
19 evaluate the capacity, costs, gaps, and needs for the following
20 factors necessary to achieve performance rate recommendations
21 identified under section 206 of this act:

22 (i) Availability and types of recycling services for covered
23 products for residents in single-family and multifamily residences,
24 including whether current services are considered residential or
25 commercial and whether any gaps, costs, or needs are specific to
26 either commercial or residential customer service;

27 (ii) (A) The current methods and infrastructure for serving
28 residents, including curbside recycling service areas and material
29 drop-off locations;

30 (B) Any densely populated areas within each jurisdiction in which
31 curbside recycling services for covered products identified by the
32 department on the list developed and published under section 207 of
33 this act are not available or are only partially available;

34 (C) Any areas within each jurisdiction where curbside garbage
35 collection services are offered to residents in single-family and
36 multifamily residences but curbside recycling services are not
37 offered;

38 (iii) Education and outreach activities;

1 (iv) Availability and performance of collection, transport, and
2 processing capacity and infrastructure, including consideration of
3 material quality and contamination;

4 (v) Availability and performance of collection, transport, and
5 processing capacity and infrastructure to manage compostable covered
6 products, including consideration of the material quality and
7 contamination;

8 (vi) Necessary capital investments to existing reuse and
9 recycling infrastructure, and how to maximize the use of existing
10 infrastructure;

11 (b) Compile information related to actual costs for curbside
12 collection services, drop-off collection services, and other
13 information relevant to the funding requirements to achieve
14 performance rates, including costs for various service methods
15 recommended by stakeholders during the study scoping process;

16 (c) Estimate the total costs of investments necessary to reach
17 target rates, within each jurisdiction, as well as ongoing program
18 costs related to labor, equipment, and maintenance. Cost factors and
19 variables to be considered in the estimates include:

20 (i) Population size and density of a local jurisdiction;

21 (ii) Types of households serviced and collection method used;

22 (iii) Distance from a local jurisdiction to the nearest recycling
23 facility;

24 (iv) Whether a jurisdiction pays for transportation and sorting
25 of collected materials and whether it receives a commodity value from
26 processed materials;

27 (v) Geographic location or other variables contributing to
28 regional differences in costs;

29 (vi) Cost increases over time; and

30 (vii) Any other factors as determined to be necessary by the
31 department, with input from stakeholders;

32 (d) (i) Identify cost factors and other variables to be considered
33 in the development of funding estimates for government entities for
34 any services other than curbside collection to be carried out by
35 government entities that may be needed to achieve performance rates
36 developed under section 206 of this act;

37 (ii) Identify methods to consider greenhouse gas emissions and
38 other environmental outcomes associated with potential expansions of
39 curbside recycling services to rural or sparsely populated areas;

1 (e) Compile relevant information to be considered in the
2 development of criteria by the department to determine whether a
3 covered product is recyclable, reusable, or compostable through
4 Washington's curbside recycling collection system. The relevant
5 information to be compiled may include whether covered product
6 materials are:

7 (i) Or may be, collected, separated, and processed in sufficient
8 quantity and quality into a marketable feedstock that can be used in
9 the production of new products; or

10 (ii) Designed in a way that is problematic for reuse, recycling,
11 or composting;

12 (f) Evaluate how the state's existing recycling system can be
13 improved in a socially just manner as it relates to activities
14 required under this chapter. The assessment must:

15 (i) Include meaningful consultation with overburdened communities
16 and vulnerable populations;

17 (ii) Determine conditions and make recommendations including, at
18 minimum:

19 (A) Improving access to the recycling system for women and
20 minority individuals;

21 (B) The sufficiency of local government requirements related to
22 multifamily recycling services and their implementation;

23 (C) Identification of activities that disproportionately impact
24 any community and in particular overburdened communities and
25 vulnerable populations;

26 (D) Improving the sufficiency of recycling education and outreach
27 programs relative to desired socially just management outcomes;

28 (E) Recommendations for improving socially just management
29 practices and outcomes in the state's recycling system; and

30 (F) Evaluate the extent to which covered products contribute to
31 litter and marine debris. The assessment should draw on available
32 data, assess gaps, and identify strategies for improving prevention
33 and cleanup of litter and marine debris from covered products; and

34 (g) Compile information from available data sources on the
35 presence of toxic substances in covered products and their potential
36 impacts on reuse, recycling, and composting systems. The information
37 compiled is intended to inform the development of ecomodulation
38 factors that incentivize the reduction of toxic substances that have
39 potentially negative impacts when covered products are managed
40 through reuse, recycling, and composting systems.

1 NEW SECTION. **Sec. 209.** COVERED PRODUCT PRODUCER REGISTRATION
2 AND REPORTING. (1) Beginning January 1, 2025, a producer that offers
3 for sale, sells, or distributes in or into Washington covered
4 products must register with the department individually or through a
5 third-party representative registering on behalf of a group of
6 producers.

7 (2) The registration information submitted to the department
8 under this section must include a list of the producers of covered
9 products and the brand names of the covered products represented in
10 the registration submittal. Beginning in 2026, a producer may submit
11 registration information at the same time as the information
12 submitted through the annual reporting in subsection (3) of this
13 section.

14 (3)(a) Beginning April 1, 2026, each producer of covered
15 products, individually or through a third party representing a group
16 of producers, must provide an annual report to the department that
17 includes, by material category, the volume in pounds of covered
18 products sold, offered for sale, or distributed in or into Washington
19 during the preceding calendar year.

20 (b) The report must be submitted in a format and manner
21 prescribed by the department. A manufacturer may submit national data
22 allocated on a per capita basis for Washington to approximate the
23 information required in this subsection if the producer or third-
24 party representative demonstrates to the department that state level
25 data are not available or feasible to generate.

26 (c) The department must post the information reported under this
27 subsection on its website, except as provided in (d) of this
28 subsection.

29 (d) A producer that submits information or records to the
30 department under this chapter may request that the information or
31 records be made available only for the confidential use of the
32 department, the director, or the appropriate division of the
33 department. The director of the department must give consideration to
34 the request and if this action is not detrimental to the public
35 interest and is otherwise in accordance with the policies and
36 purposes of chapter 43.21A RCW, the director must grant the request
37 for the information to remain confidential as authorized in
38 RCW 43.21A.160.

1 NEW SECTION. **Sec. 210.** DEPARTMENT OF ECOLOGY OVERSIGHT. (1) The
2 department shall adopt rules as necessary to administer, implement,
3 and enforce this section and section 209 of this act.

4 (2) (a) The department may conduct audits and investigations for
5 the purpose of ensuring compliance with section 209 of this act.

6 (b) The department shall annually publish a list of registered
7 producers of covered products and associated brand names, their
8 compliance status, and other information the department deems
9 appropriate on the department's website.

10 (3) (a) By January 31, 2025, and every January 31st thereafter,
11 the department must:

12 (i) Prepare an annual workload analysis for public comment that
13 identifies the annual costs it expects to incur to implement,
14 administer, and enforce this section and section 209 of this act, and
15 to carry out its obligations under sections 206 through 208 and 211
16 of this act;

17 (ii) Determine a total annual fee payment by producers or their
18 third-party representatives that is adequate to cover, but not
19 exceed, the workload identified in (a)(i) of this subsection;

20 (iii) Until rules are adopted under (a)(iv) of this subsection,
21 issue a general order to all entities falling within the definition
22 of producer. The department must equitably determine fee amounts;

23 (iv) By 2027, adopt rules to equitably determine annual fee
24 payments by producers or their third-party representatives. Once such
25 rules are adopted, the general order issued under (a)(iii) of this
26 subsection is no longer effective; and

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

31 (b) The department must:

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

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

38 (c) By April 1, 2025, and every April 1st thereafter, producers
39 or their third-party representatives must submit a fee payment as
40 determined by the department under (a) of this subsection. Fee

1 payments must be deposited in the recycled content account created in
2 RCW 70A.245.110.

3 (4) For producers out of compliance with the registration or
4 reporting requirements of section 209 of this act or the labeling
5 requirements in section 202 of this act, the department shall provide
6 written notification and offer information to producers. For the
7 purposes of this section, written notification serves as notice of
8 the violation. The department must issue at least two notices of
9 violation by certified mail prior to assessing a penalty under
10 subsection (5) of this section.

11 (5) A producer in violation of the labeling requirements in
12 section 202 of this act or the registration or reporting requirements
13 in section 209 of this act is subject to a civil penalty for each day
14 of violation in an amount not to exceed \$1,000.

15 (6) Penalties collected under this section must be deposited in
16 the recycling enhancement account created in RCW 70A.245.100.

17 (7) Penalties issued under this section are appealable to the
18 pollution control hearings board established in chapter 43.21B RCW.

19 NEW SECTION. **Sec. 211.** ADVISORY COMMITTEE. (1) The advisory
20 committee is established.

21 (2) The advisory committee consists of members appointed by the
22 department as follows:

23 (a) Four representatives of local governments representing
24 geographic areas across the state, including two representatives of
25 counties and two representatives of cities, each with one
26 representative of urban communities and one representative of rural
27 communities;

28 (b) One representative of tribal or indigenous solid waste
29 services organizations;

30 (c) One representative of special purpose districts involved in
31 activities related to the end-of-life management of solid waste;

32 (d) Two representatives of community-based organizations whose
33 mission is to serve the interests of overburdened communities and
34 vulnerable populations;

35 (e) Two representatives of environmental nonprofit organizations;

36 (f) One owner or operator of a small business that is not
37 eligible for representation under (g), (h), or (i) of this
38 subsection;

1 (g) Six representatives of the recycling industry, including
2 local governments' service providers, solid waste collection
3 companies or associations, material recovery facilities, or other
4 processing facilities;

5 (h) Three representatives of producers of covered products or
6 producer trade associations representing different types of covered
7 products;

8 (i) Two representatives of packaging suppliers that are not
9 producers as defined under this chapter representing different
10 material categories; and

11 (j) One representative of a retail establishment.

12 (3) Advisory committee members must be appointed by the director
13 of the department by January 1, 2025. In appointing members, the
14 department shall:

15 (a) Appoint members that, to the greatest extent practicable,
16 represent diversity in race, ethnicity, age, and gender, urban and
17 rural areas, and different regions of the state;

18 (b) Consider recommendations for appointments from relevant
19 represented groups or associations and from individuals interested in
20 participating on the advisory committee.

21 (4)(a) The terms of initial appointments must be staggered to two
22 and three-year appointments, with subsequent terms of three years.
23 Members are eligible for reappointment.

24 (b) If there is a vacancy for any reason, the department shall
25 make an appointment to become effective immediately for the unexpired
26 term.

27 (5)(a) The advisory committee shall elect one of its members to
28 serve as chair and another to serve as vice chair of the advisory
29 committee, for the terms and with the duties and powers necessary for
30 the performance of the functions of such offices as the advisory
31 committee determines. The chair and vice chair may not both be
32 members appointed under subsection (2)(a) through (i) of this
33 section.

34 (b) The advisory committee may adopt bylaws and a charter for the
35 operation of its business for the purposes of this chapter.

36 (6) The advisory committee shall meet at least once every three
37 months for the first three years, at times and places specified by
38 the chair. The advisory committee may also meet at other times and
39 places, including virtually, specified by the call of the chair or of

1 a majority of the committee members, as necessary, to carry out the
2 duties of the advisory committee.

3 (7) (a) The department shall provide staff support and
4 facilitation as necessary for the advisory committee to carry out its
5 duties.

6 (b) The department may select an impartial, third-party
7 facilitator to convene and provide administrative support to the
8 advisory committee.

9 (8) The duties of the advisory committee include the following:

10 (a) Advise and make recommendations to the department on the
11 lists developed and published by the department under section 207 of
12 this act;

13 (b) Advise and make recommendations to the department on the
14 scope of the statewide needs assessment under section 208 of this
15 act;

16 (c) Review and comment on a draft statewide needs assessment
17 prior to their completion;

18 (d) Review and comment on the department's implementation and
19 administration of the registration and reporting requirements in
20 sections 209 and 210 of this act; and

21 (e) Provide input, review, and comment on rules proposed by the
22 department under this chapter.

23 (9) Advisory committee members that are representatives of tribes
24 or tribal and indigenous services organizations or community-based
25 and environmental nonprofit organizations must, if requested, be
26 compensated and reimbursed in accordance with RCW 43.03.050,
27 43.03.060, and 43.03.220.

28 PART 3

29 ESTABLISHING POSTCONSUMER RECYCLED CONTENT

30 REQUIREMENTS

31 NEW SECTION. **Sec. 301.** DE MINIMIS PRODUCERS. (1) For purposes
32 of determining whether a producer is a de minimis producer, the
33 weight and revenue definitional thresholds must be calculated at the
34 level of the entity associated with the covered product.

35 (2) The exemptions under this chapter for de minimis producers do
36 not apply to an entity that has agreed to accept responsibility for
37 compliance with the requirements of this chapter for a covered
38 product on the behalf of another producer.

1 (3) (a) De minimis producers are not required to meet annual
2 registration, reporting, postconsumer recycled content, or fee
3 requirements of covered products under this chapter.

4 (b) De minimis producers must annually notify the department, in
5 a form and manner specified by the department, to demonstrate that
6 the producer is a de minimis producer.

7 (4) The department may require that a producer submit information
8 necessary to verify whether a producer qualifies for de minimis
9 status, including:

10 (a) Annual global gross revenue dollar amount less than or equal
11 to \$5,000,000;

12 (b) Annual total resin weight less than or equal to one ton; and

13 (c) Any additional information requested by the department.

14 NEW SECTION. **Sec. 302.** POSTCONSUMER RECYCLED CONTENT
15 REQUIREMENTS FOR PLASTIC BEVERAGE CONTAINERS. A producer of a
16 beverage in a plastic beverage container must meet the following
17 annual minimum postconsumer recycled content percentage on average
18 for the total quantity of plastic beverage containers, by weight,
19 that are sold, offered for sale, or distributed in or into Washington
20 by the producer effective:

21 (1) For beverages except wine in 187 milliliter plastic beverage
22 containers and dairy milk:

23 (a) January 1, 2023, through December 31, 2025: No less than 15
24 percent postconsumer recycled content plastic by weight;

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

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

29 (2) For wine in 187 milliliter plastic beverage containers and
30 dairy milk:

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

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

35 (c) On and after January 1, 2036: No less than 50 percent
36 postconsumer recycled content plastic by weight.

37 NEW SECTION. **Sec. 303.** POSTCONSUMER RECYCLED CONTENT
38 REQUIREMENTS FOR HOUSEHOLD CLEANING PRODUCTS AND PERSONAL CARE

1 PRODUCTS. A producer of household cleaning products in plastic
2 containers or a producer of personal care products in plastic
3 containers must meet the following annual minimum postconsumer
4 recycled content percentage on average for the total quantity of
5 plastic containers, by weight, that are sold, offered for sale, or
6 distributed in or into Washington by the producer effective:

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

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

11 (3) On and after January 1, 2031: No less than 50 percent
12 postconsumer recycled content plastic by weight.

13 NEW SECTION. **Sec. 304.** POSTCONSUMER RECYCLED CONTENT FOR
14 PLASTIC TRASH BAGS. A producer of plastic trash bags must meet the
15 following annual minimum postconsumer recycled content percentage on
16 average for the total quantity of plastic trash bags, by weight, that
17 are sold, offered for sale, or distributed in or into Washington by
18 the producer effective:

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

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

23 (3) On and after January 1, 2027: No less than 20 percent
24 postconsumer recycled content plastic by weight.

25 NEW SECTION. **Sec. 305.** POSTCONSUMER RECYCLED CONTENT FOR
26 POLYPROPYLENE TUBS. A producer of polypropylene tubs must meet the
27 following annual minimum postconsumer recycled content percentage on
28 average for the total quantity of polypropylene tubs, by weight, that
29 are sold, offered for sale, or distributed in or into Washington by
30 the producer effective:

31 (1) January 1, 2028, through December 31, 2032: No less than 10
32 percent postconsumer recycled content plastic by weight; and

33 (2) On and after January 1, 2033: No less than 30 percent
34 postconsumer recycled content plastic by weight.

35 NEW SECTION. **Sec. 306.** POSTCONSUMER RECYCLED CONTENT FOR
36 SINGLE-USE PLASTIC CUPS. A producer of single-use plastic cups made
37 of polyethylene terephthalate, polypropylene, or polystyrene must

1 meet the following annual minimum postconsumer recycled content
2 percentage on average for the total quantity of single-use plastic
3 cups, by weight, that are sold, offered for sale, or distributed in
4 or into Washington by the producer effective:

5 (1) For polypropylene single-use plastic cups:

6 (a) January 1, 2031, through December 31, 2032: No less than 15
7 percent postconsumer recycled content plastic by weight; and

8 (b) On and after January 1, 2033: No less than 25 percent
9 postconsumer recycled content plastic by weight;

10 (2) For polyethylene terephthalate and polystyrene single-use
11 plastic cups:

12 (a) January 1, 2033, through December 31, 2034: No less than 20
13 percent postconsumer recycled content plastic by weight; and

14 (b) On and after January 1, 2035: No less than 30 percent
15 postconsumer recycled content plastic by weight.

16 NEW SECTION. **Sec. 307.** POSTCONSUMER RECYCLED CONTENT FOR
17 POLYETHYLENE TEREPHTHALATE THERMOFORM PLASTIC CONTAINERS. A producer
18 of a polyethylene terephthalate thermoform plastic container must
19 meet the following annual minimum postconsumer recycled content
20 percentage on average for the total quantity of polyethylene
21 terephthalate thermoform plastic containers, by weight, that are
22 sold, offered for sale, or distributed in or into Washington by the
23 producer effective:

24 (1) For packaging for consumable goods:

25 (a) January 1, 2028, through December 31, 2032: No less than 10
26 percent postconsumer recycled content plastic by weight; and

27 (b) On and after January 1, 2033: No less than 30 percent
28 postconsumer recycled content plastic by weight;

29 (2) (a) Except as provided in (b) of this subsection, for
30 packaging used for durable goods: On and after January 1, 2033, no
31 less than 30 percent postconsumer recycled content plastic by weight;

32 (b) Packaging designed to accompany a durable good where that
33 durable good model is designed prior to the effective date of the
34 requirement in (a) of this subsection is exempt.

35 NEW SECTION. **Sec. 308.** (1) The department must ensure that any
36 rules adopted pursuant to this chapter consider guidelines, and do
37 not conflict with regulations, issued by the United States food and
38 drug administration and the United States department of agriculture,

1 and consider requirements imposed by other Washington state agencies
2 including, but not limited to, the department of agriculture.

3 (2) The department may not impose any requirement including, but
4 not limited to, a postconsumer recycled content requirement, in
5 direct conflict with a federal law or regulation or the requirements
6 necessary to comply with a federal law or regulation including, but
7 not limited to: (a) Laws or regulations covering tamper-evident
8 packaging pursuant to 21 C.F.R. Sec. 211.132; (b) laws or regulations
9 covering child-resistant packaging pursuant to 16 C.F.R. Sec. 1700.1,
10 et seq.; (c) regulations, rules, or guidelines issued by the United
11 States department of agriculture or the United States food and drug
12 administration related to packaging agricultural commodities; and (d)
13 requirements for microbial contamination, structural integrity, or
14 safety of packaging where no viable recyclable or compostable
15 packaging that can meet the requirements exists, pursuant to: (i) The
16 federal food, drug, and cosmetic act (21 U.S.C. Sec. 301, et seq.);
17 (ii) 21 U.S.C. Sec. 2101, et seq.; (iii) The federal food and drug
18 administration food safety modernization act (21 U.S.C. Sec. 2201, et
19 seq.); (iv) the federal poultry products inspection act (21 U.S.C.
20 Sec. 451, et seq.); (v) the federal meat inspection act (21 U.S.C.
21 Sec. 601, et seq.); or (vi) the federal egg products inspection act
22 (21 U.S.C. Sec. 1031, et seq.).

23 PART 4

24 AMENDMENTS TO EXISTING POSTCONSUMER RECYCLED 25 CONTENT REQUIREMENTS

26 **Sec. 401.** RCW 70A.245.010 and 2021 c 313 s 2 are each amended to
27 read as follows:

28 The definitions in this section apply throughout this chapter
29 unless the context clearly requires otherwise.

30 (1) ~~(a)~~ "Beverage" means ~~((beverages identified in (a) through (f)~~
31 ~~of this subsection,))~~ liquid products intended for human or animal
32 consumption, and in a quantity more than or equal to two fluid ounces
33 and less than or equal to one gallon:

34 ~~((a))~~ (i) Water and flavored water;

35 ~~((b))~~ (ii) Beer or other malt beverages;

36 ~~((c))~~ (iii) Wine;

37 ~~((d))~~ (iv) Distilled spirits;

1 ~~((e))~~ (v) Mineral water, soda water, and similar carbonated
2 soft drinks; ~~(and~~
3 ~~(f) Any beverage other than those specified in (a) through (e) of~~
4 ~~this subsection, except)~~ (vi) Dairy milk; and
5 (vii) Any other beverage identified by the department by rule.

6 (b) Beverage does not include infant formula as defined in 21
7 U.S.C. Sec. 321(z), medical food as defined in 21 U.S.C. Sec.
8 360ee(b)(3), or fortified oral nutritional supplements used for
9 persons who require supplemental or sole source nutritional needs due
10 to special dietary needs directly related to cancer, chronic kidney
11 disease, diabetes, or other medical conditions as determined by the
12 department.

13 (2) "Beverage manufacturing industry" means an association that
14 represents beverage producers.

15 (3) "Condiment packaging" means packaging used to deliver single-
16 serving condiments to customers. Condiment packaging includes, but is
17 not limited to, single-serving packaging for ketchup, mustard,
18 relish, mayonnaise, hot sauce, coffee creamer, salad dressing, jelly,
19 jam, and soy sauce.

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

23 (i) Plastic trash bags;

24 (ii) Household cleaning ~~((and personal care products that use~~
25 ~~plastic household cleaning and personal care product containers; and~~

26 ~~(iii) Beverages that use plastic beverage containers))~~ products
27 that use plastic household cleaning product containers;

28 (iii) Personal care products that use personal care product
29 containers;

30 (iv) Beverages that use plastic beverage containers;

31 (v) Plastic tubs;

32 (vi) Thermoform plastic polyethylene terephthalate containers;

33 and

34 (vii) Single-use polypropylene, polyethylene terephthalate, or
35 polystyrene cups.

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

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

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

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

11 (8) "Food service business" means a business selling or providing
12 food for consumption on or off the premises, and includes full-
13 service restaurants, fast food restaurants, cafes, delicatessens,
14 coffee shops, grocery stores, vending trucks or carts, home delivery
15 services, delivery services provided through an online application,
16 and business or institutional cafeterias.

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

23 (10) ~~"Household cleaning ((and personal care product" means any~~
24 ~~of the following:~~

25 ~~(a) Laundry detergents, softeners, and stain removers;~~

26 ~~(b) Household cleaning products;~~

27 ~~(c) Liquid soap;~~

28 ~~(d) Shampoo, conditioner, styling sprays and gels, and other hair~~
29 ~~care products; or~~

30 ~~(e) Lotion, moisturizer, facial toner, and other skin care))~~
31 products" means products labeled, marketed, or otherwise indicating
32 that the purpose of the product is to clean, freshen, or remove
33 unwanted substances, such as dirt, stains, and other impurities from
34 objects, interior or exterior structures, vehicles, possessions, and
35 environments associated with a household. These items include:

36 (a) Liquid soaps, laundry soaps, detergents, softeners, surface
37 polishes, and stain removers;

38 (b) Textile cleaners, carpet and pet cleaners, and treatments; or

39 (c) Other products used to clean or freshen areas associated with
40 a household.

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

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

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

12 (14)(a) "Plastic beverage container" means a bottle or other
13 rigid container that is capable of maintaining its shape when empty,
14 comprised solely of one or multiple plastic resins designed to
15 contain a beverage. "Plastic beverage container" includes a
16 container's cap or lid, beginning January 1, 2025;

17 (b) Plastic beverage container does not include:

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

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

26 ~~((c))~~ (iii) Bladders or pouches that contain wine; or

27 ~~((d))~~ (iv) Liners, caps, corks, closures, labels, and other
28 items added externally or internally but otherwise separate from the
29 structure of the bottle or container, other than a cap or lids; and

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

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

35 (i) ~~((A))~~ With a minimum capacity of eight fluid ounces or its
36 equivalent volume;

37 (ii) ~~((A))~~ With a maximum capacity of five fluid gallons or its
38 equivalent volume;

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

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

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

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

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

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

13 (iii) Other covered products subject to minimum postconsumer
14 recycled content requirements.

15 (16) "Plastic trash bag" means a bag that is made of
16 noncompostable plastic, is at least 0.70 mils thick, and is designed
17 and manufactured for use as a container to hold, store, or transport
18 materials to be discarded or recycled, and includes, but is not
19 limited to, a garbage bag, recycling bag, lawn or leaf bag, can liner
20 bag, kitchen bag, or compactor bag. "Plastic trash bag" does not
21 include any compostable bags meeting the requirements of chapter
22 70A.455 RCW. "Plastic trash bag" does not include any reusable
23 plastic carryout bag meeting the requirements of RCW
24 70A.530.020(6)(b).

25 (17) "Plastic trash bag manufacturing industry" means an
26 association that represents companies that manufacture plastic trash
27 bags.

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

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

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

4 (ii) If the covered product is manufactured by a person other
5 than the brand owner, the producer is the person who is the licensee
6 of a brand or trademark under which a covered product is sold,
7 offered for sale, or distributed in or into this state, whether or
8 not the trademark is registered in this state, unless the
9 manufacturer or brand owner of the covered product has agreed to
10 accept responsibility under this chapter; or

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

15 (b) "Producer" does not include:

16 (i) Government agencies, municipalities, or other political
17 subdivisions of the state; or

18 (ii) Registered 501(c)(3) charitable organizations and 501(c)(4)
19 social welfare organizations (~~;~~ ~~or~~

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

22 ~~(A) Less than one ton of a single category of plastic beverage~~
23 ~~containers, plastic household cleaning and personal care containers,~~
24 ~~or plastic trash bags each year; or~~

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

27 (20)(a) "Retail establishment" means any person, corporation,
28 partnership, business, facility, vendor, organization, or individual
29 that sells or provides merchandise, goods, or materials directly to a
30 customer.

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

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

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

3 (22) "Brand" means a name, symbol, word, logo, or mark that
4 identifies a product and attributes the product and its components,
5 including packaging, to the brand owner of the product as the
6 producer.

7 (23) "De minimis producer" means an entity that annually sells,
8 offers for sale, distributes, or imports:

9 (a) In or into the country for sale in Washington state less than
10 one ton of covered products; or

11 (b) A global gross revenue of less than \$5,000,000 for the most
12 recent fiscal year of the organization.

13 (24) "Durable good" means a product that provides utility over an
14 extended period of time.

15 (25) "Entity" means an individual and any form of business
16 enterprise. For purposes of calculating the de minimis producer
17 thresholds under this chapter, a producer entity includes all legal
18 entities that are affiliated by common ownership of 50 percent or
19 greater, including parents, subsidiaries, and commonly owned
20 affiliates.

21 (26) "Household" means all of the people who occupy a residential
22 property regardless of their relationship to one another.

23 (27) "Personal care product" means a product intended or marketed
24 for use to be rubbed, poured, sprinkled, or sprayed on, introduced
25 into, or otherwise applied to the human body for cleansing,
26 beautifying, promoting attractiveness, or altering the appearance
27 including:

28 (a) Shampoo, conditioner, styling sprays and gels, and other hair
29 care products;

30 (b) Lotion, moisturizer, facial toner, and other skin care
31 products;

32 (c) Liquid soap and other body care products; or

33 (d) Other products used to maintain, improve, or enhance personal
34 care or appearance.

35 (28) (a) "Polyethylene terephthalate thermoform plastic container"
36 means a clear or colored plastic container, such as a clamshell, lid,
37 tray, egg carton, trifold, or similar rigid, nonbottle packaging,
38 formed from sheets of extruded polyethylene terephthalate resin and
39 used to package consumable or durable goods that reach consumers,
40 including:

1 (i) Branded and prepackaged containers that have been filled with
2 products and sealed prior to receipt by the retail establishment,
3 such as fresh produce, baked goods, nuts, toys, electronics, and
4 tools;

5 (ii) Containers that may be filled at the point-of-sale at a
6 retail establishment;

7 (iii) Unfilled containers that are sold directly;

8 (iv) Hinged plastic containers, commonly known as "clamshells" or
9 "blister packaging";

10 (v) Two-piece unhinged containers;

11 (vi) One-piece containers without lids, such as trays; and

12 (vii) Trifold or tent containers with one or more hinges and a
13 flat bottom.

14 (b) "Polyethylene terephthalate thermoform plastic container"
15 does not include:

16 (i) Household cleaning products or personal care products;

17 (ii) Polypropylene plastic tubs;

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

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

22 (v) A refillable polyethylene terephthalate thermoform plastic
23 container that ordinarily would be returned to the manufacturer to be
24 refilled and resold;

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

28 (vii) Other covered products subject to minimum postconsumer
29 recycled content requirements under this chapter; and

30 (viii) Polyethylene terephthalate thermoform plastic containers
31 accompanying a durable good when the durable good model, and the
32 associated packaging, was designed prior to January 1, 2028.

33 (29) (a) "Polypropylene plastic tub" means a wide mouth, rigid
34 container used to package consumable or durable goods that reach
35 consumers, with a maximum capacity of 50 ounces, that is:

36 (i) Capable of maintaining its shape when empty;

37 (ii) Comprised solely of polypropylene; and

38 (iii) Sealed with tamper-proof film or a detachable lid capable
39 of multiple openings and closures.

40 (b) "Polypropylene plastic tub" does not include:

- 1 (i) Household cleaning and personal care products;
2 (ii) Plastic containers that are or are used for medical devices,
3 medical products that are required to be sterile, nonprescription and
4 prescription drugs, or dietary supplements as defined in RCW
5 82.08.0293;
6 (iii) Polyethylene terephthalate thermoform plastic containers;
7 (iv) Single-use plastic cups made of polypropylene, polyethylene
8 terephthalate, or polystyrene; and
9 (v) Other covered products subject to minimum postconsumer
10 recycled content requirements.

11 (30)(a) "Single-use plastic cup" means all beverage cups that are
12 nonsealed or sealed at point-of-sale.

13 (b) Single-use plastic cups do not include: (i) Commercially or
14 home compostable cups; (ii) expanded polystyrene cups; (iii)
15 composite plastic-lined fiber cups; or (iv) other covered products
16 subject to minimum postconsumer recycled content requirements.

17 **Sec. 402.** RCW 70A.245.020 and 2021 c 313 s 3 are each amended to
18 read as follows:

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

21 (i) Beverages other than wine in 187 milliliter plastic beverage
22 containers and dairy milk in plastic beverage containers must meet
23 minimum postconsumer recycled content requirements established under
24 ~~((subsection (4) of this))~~ section 302 of this act; and

25 (ii) Plastic trash bags must meet minimum postconsumer recycled
26 content requirements established under ~~((subsection (6) of this))~~
27 section 304 of this act.

28 (b) Beginning January 1, 2025, producers that offer for sale,
29 sell, or distribute in or into Washington household cleaning ~~((and))~~
30 products or personal care products in plastic household cleaning
31 product containers and personal care product containers must meet
32 minimum postconsumer recycled content as required under ~~((subsection~~
33 ~~(5) of this))~~ section 303 of this act.

34 (c) Beginning January 1, 2028, producers that offer for sale,
35 sell, or distribute in or into Washington wine in 187 milliliter
36 plastic beverage containers or dairy milk in plastic beverage
37 containers must meet minimum postconsumer recycled content as
38 required under ~~((subsection (4) of this))~~ section 302 of this act.

1 (d) Beginning January 1, 2028, producers that offer for sale,
2 sell, or distribute in or into Washington polypropylene plastic tubs
3 must meet minimum postconsumer recycled content requirements
4 established under section 305 of this act.

5 (e) Beginning January 1, 2031, producers that offer for sale,
6 sell, or distribute in or into Washington single-use plastic cups
7 must meet minimum postconsumer recycled content requirements
8 established under section 306 of this act.

9 (f) Beginning January 1, 2028, producers that offer for sale,
10 sell, or distribute in or into Washington polyethylene terephthalate
11 thermoform plastic containers except those containing durable goods
12 must meet minimum postconsumer recycled content requirements
13 established under section 307 of this act.

14 (g) Beginning January 1, 2033, producers that offer for sale,
15 sell, or distribute in or into Washington durable goods in
16 polyethylene terephthalate thermoform plastic containers must meet
17 minimum postconsumer recycled content requirements established under
18 section 307 of this act.

19 (2)(a) On or before April 1, 2022, and annually thereafter, a
20 producer that offers for sale, sells, or distributes in or into
21 Washington covered products must register with the department
22 individually or through a third-party representative registering on
23 behalf of a group of producers. A producer of products newly added to
24 the list of covered products under this act must register with the
25 department individually or through a third-party representative
26 registering on behalf of a group of producers on or before April 1,
27 2024.

28 (b) The registration information submitted to the department
29 under this section must include a list of the producers of covered
30 products and the brand names of the covered products represented in
31 the registration submittal. ~~Beginning ((April 1, 2024, for plastic~~
32 ~~trash bags and plastic beverage containers other than wine in 187~~
33 ~~milliliter plastic beverage containers and dairy milk in plastic~~
34 ~~beverage containers, April 1, 2026, for plastic household and~~
35 ~~personal care product containers, and April 1, 2029, for wine in 187~~
36 ~~milliliter plastic beverage containers and dairy milk)) in the year~~
37 in which an annual report must be submitted by a producer under RCW
38 70A.245.030, a producer may submit registration information at the
39 same time as the information submitted through the annual reporting
40 ((required under RCW 70A.245.030)).

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

3 (i) Prepare an annual workload analysis for public comment that
4 identifies the annual costs it expects to incur to implement,
5 administer, and enforce (~~this section and RCW 70A.245.030 through~~
6 ~~70A.245.060 and 70A.245.090 (1), (2), and (4)) the requirements
7 related to postconsumer recycled content under this chapter,
8 including rule making, in the next fiscal year for each category of
9 covered products;~~

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

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

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

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

28 (b) The department must:

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

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

35 (c) By April 1, 2022, and every April 1st thereafter, producers
36 or their third-party representative must submit a fee payment as
37 determined by the department under (a) of this subsection. Producers
38 of products newly included as covered products by this act must
39 submit a fee payment as determined by the department under (a) of
40 this subsection by April 1, 2025, and each April 1st thereafter.

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

6 ~~(a) For beverages except wine in 187 milliliter plastic beverage~~
7 ~~containers and dairy milk:~~

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

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

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

14 ~~(b) For wine in 187 milliliter plastic beverage containers and~~
15 ~~dairy milk:~~

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

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

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

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

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

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

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

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

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

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

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

5 ~~(7)) (a) ((Beginning January 1, 2024, or when rule making is~~
6 ~~complete, whichever is sooner, the department may, on an annual basis~~
7 ~~on January 1st,)) By October 31st of each year, the department may~~
8 review and determine for the following year whether to adjust the
9 minimum postconsumer recycled content percentage required for a type
10 of container or product or category of covered products pursuant to
11 ~~((subsection (4), (5), or (6) of this section)) this chapter.~~ The
12 department's review may be initiated by the department or at the
13 petition of a producer or a covered product manufacturing industry
14 not more than once annually. Petitions for review and adjustment must
15 be made to the department in the annual report submitted under RCW
16 70A.245.030 by June 30th of the year prior to the year in which the
17 adjustment would apply. When submitting a petition, producers or a
18 producer manufacturing industry must provide necessary information
19 that will allow the department to make a determination under (b) of
20 this subsection.

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

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

26 (ii) Recycling rates;

27 (iii) The availability of recycled plastic suitable to meet the
28 minimum postconsumer recycled content requirements pursuant to
29 ~~((subsection (4), (5), or (6) of this section)) this chapter,~~
30 including the availability of high quality recycled plastic, and
31 food-grade recycled plastic from recycling programs;

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

33 (v) The technical feasibility of achieving the minimum
34 postconsumer recycled content requirements in covered products that
35 are regulated under 21 C.F.R., chapter I, subchapter G, 7 U.S.C. Sec.
36 136, 15 U.S.C. Sec. 1471-1477, 49 C.F.R. Sec. 178.33b, 49 C.F.R. Sec.
37 173, 40 C.F.R. Sec. 152.10, 15 U.S.C. Sec. 1261-1278, 49 U.S.C. 5101
38 et seq., 49 C.F.R. Sec. 178.509, 49 C.F.R. Sec. 179.522, 49 C.F.R.
39 Sec. 178.600-609, and other federal laws; and

1 (vi) The progress made by producers in achieving the postconsumer
2 recycled content goals of this (~~section~~) chapter.

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

4 (i) The department may not adjust the minimum postconsumer
5 recycled content requirements above the minimum postconsumer recycled
6 content percentages for the year under review required pursuant to
7 (~~subsection (4), (5), or (6) of this section~~) sections 302 through
8 307 of this act.

9 (ii) For plastic household cleaning product containers and
10 personal care product containers, the department may not adjust the
11 minimum postconsumer recycled content requirements above the minimum
12 postconsumer recycled content percentages for the year under review
13 required pursuant to (~~subsection (5) of this~~) section 303 of this
14 act or below a minimum of 10 percent.

15 (iii) For plastic trash bags, the department may not adjust the
16 minimum postconsumer recycled content requirements above the minimum
17 postconsumer recycled content percentages for the year under review
18 required pursuant to (~~subsection (6) of this~~) section 304 of this
19 act or below the minimum percentage required in (~~subsection (6)(a)~~
20 ~~of this~~) section 304(1) of this act.

21 (d) A producer or the manufacturing industry for a covered
22 product may appeal a decision by the department to adjust
23 postconsumer recycled content percentages under (a) of this
24 subsection or to temporarily exclude covered products from minimum
25 postconsumer recycled content requirements under subsection (~~(+8)~~)
26 (5) of this section to the pollution control hearings board within 30
27 days of the department's determination.

28 (~~(+8)~~) (5) The department must temporarily exclude from minimum
29 postconsumer recycled content requirements for the upcoming year any
30 types of covered products in plastic containers for which a producer
31 annually demonstrates to the department by (~~December 31st~~) June 1st
32 of a given year that the achievement of postconsumer recycled content
33 requirements in the container material is not technically feasible in
34 order to comply with health or safety requirements of federal law,
35 including the federal laws specified in subsection (~~(+7)~~) (4)(b)(v)
36 of this section. A producer must continue to register and report
37 consistent with the requirements of this chapter for covered products
38 temporarily excluded from minimum postconsumer recycled content
39 requirements under this subsection.

1 ~~((9))~~ (6)(a) A producer or group of producers may evaluate the
2 postconsumer recycled content requirements in sections 302 (1)(c) and
3 (2)(c), 303(3), 304(2), 305 (1) and (2), and 306 (1)(b) and (2)(a) of
4 this act and assess the market conditions, postconsumer recycled
5 content availability, and technological feasibility of these
6 requirements, no later than six months prior to the dates identified
7 in those sections. The producer or group of producers may request an
8 extension of these requirements and must present data, from the
9 evaluation performed under this subsection, to the department. The
10 department may grant the extension of the implementation of one or
11 more of these requirements for up to one year.

12 (b) The department shall review the extension request from the
13 producer or group of producers within 30 days of the request and
14 approve, partially approve, deny, or request additional information
15 to evaluate the extension request.

16 (c) The department may renew an approved extension annually, upon
17 request of a producer or group of producers, and submission of data
18 demonstrating that the conditions justifying the current extension
19 remain in place.

20 (d) If an extension is granted, the department may report to the
21 legislature any potential need to revise these requirements, prior to
22 the expiration of a one-year extension period.

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

26 ~~((10))~~ (8)(a) A city, town, county, or municipal corporation
27 may not implement local recycled content requirements for a covered
28 product that is subject to minimum postconsumer recycled content
29 requirements established in this section.

30 (b) A city, town, county, or municipal corporation may establish
31 local purchasing requirements that include recycled content standards
32 that exceed the minimum recycled content requirements established by
33 this chapter for plastic household cleaning product containers and
34 personal care product containers or plastic trash bags purchased by a
35 city, town, or municipal corporation, or its contractor.

36 ~~((11))~~ (9) The department may enter into contracts for the
37 services required to implement this chapter and related duties of the
38 department.

39 ~~((12))~~ (10) In-state distributors, wholesalers, and retailers
40 in possession of covered products manufactured before the date that

1 postconsumer recycled content requirements become effective may
2 exhaust their existing stock through sales to the public.

3 **Sec. 403.** RCW 70A.245.030 and 2021 c 313 s 4 are each amended to
4 read as follows:

5 (1) (a) Except as provided in (b) (~~and (e)~~) through (f) of this
6 subsection, beginning (~~April 1~~) June 30, 2024, each producer of
7 covered products, individually or through a third party representing
8 a group of producers, must provide an annual report to the department
9 that includes the amount in pounds of virgin plastic and the amount
10 in pounds of postconsumer recycled content by resin type used for
11 each category of covered products that are sold, offered for sale, or
12 distributed in or into Washington state, including the total
13 postconsumer recycled content resins as a percentage of total weight.
14 The report must be submitted in a format and manner prescribed by the
15 department. A (~~manufacturer~~) producer may submit national data
16 allocated on a per capita basis for Washington to approximate the
17 information required in this subsection if the producer or third-
18 party representative demonstrates to the department that state level
19 data are not available or feasible to generate.

20 (b) The report required in (a) of this subsection must include a
21 certificate of compliance or similar proof of certification conducted
22 by a nationally recognized, independent third party that has achieved
23 ISO/IEC 17065 accreditation, as it existed as of January 1, 2023, or
24 a similar certification identified by the department. The proof of
25 certification must include all of the following:

26 (i) The names, locations, and contact information of all sources
27 of postconsumer recycled content material and suppliers of
28 postconsumer recycled content material;

29 (ii) The quantity and dates of postconsumer recycled content
30 material purchases by the producer; and

31 (iii) How postconsumer recycled content material was obtained.

32 (c) The requirements of (a) of this subsection apply to household
33 cleaning products in plastic containers and personal care products in
34 plastic containers beginning (~~April 1~~) June 30, 2026.

35 (~~(e)~~) (d) The requirements of (a) of this subsection apply to
36 wine in 187 milliliter plastic beverage containers and dairy milk in
37 plastic beverage containers beginning (~~April 1, 2029~~) June 30,
38 2026.

1 ~~((d))~~ (e) The requirements of (a) of this subsection apply to
2 polypropylene plastic tubs beginning June 30, 2029.

3 (f) The requirements of (a) of this subsection apply to
4 polyethylene terephthalate thermoform plastic containers beginning
5 June 30, 2029.

6 (g) The requirements of (a) of this subsection apply to single-
7 use plastic cups made of polyethylene terephthalate, polypropylene,
8 or polystyrene beginning June 30, 2030.

9 (h) The department must post the information reported under this
10 subsection on its website, except as provided in subsection (2) of
11 this section.

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

22 (3) The department must review and may approve reports submitted
23 under this section. The department must:

24 (a) Make reports submitted under this section, including
25 petitions for exclusions or rate adjustments under this chapter,
26 available for public review and comment for at least 30 days upon the
27 receipt of the annual report by the department;

28 (b) Make a determination as to whether or not an annual report
29 meets the requirements of this section and notify the producer of
30 the:

31 (i) Determination of approval of the report; or

32 (ii) Reasons for not approving the report. The producer must
33 submit a revised report within 60 days after receipt of the letter of
34 disapproval.

35 (4) The department must post approved annual reports submitted by
36 each producer under this section on its website. The department must
37 also post on its website all resin suppliers meeting postconsumer
38 recycled content certification requirements.

1 **Sec. 404.** RCW 70A.245.040 and 2021 c 313 s 5 are each amended to
2 read as follows:

3 (1)(a) A producer that does not meet the minimum postconsumer
4 recycled content requirements pursuant to (~~RCW 70A.245.020~~) this
5 chapter is subject to a penalty pursuant to this section. Beginning
6 June 1st of the year following the first year that minimum
7 postconsumer recycled product content requirements apply to a
8 category of covered product, the penalty must be calculated
9 consistent with subsection (2) of this section unless a penalty
10 reduction or corrective action plan has been approved pursuant to
11 subsection (3) of this section.

12 (b) A producer that is assessed a penalty pursuant to this
13 section may pay the penalty to the department in one payment, in
14 quarterly installments, or arrange an alternative payment schedule
15 subject to the approval of the department, not to exceed a 12-month
16 payment schedule unless the department determines an extension is
17 needed due to unforeseen circumstances, such as a public health
18 emergency, state of emergency, or natural disaster.

19 (2) Beginning (~~June~~) October 1st of the year following the
20 first year that minimum postconsumer recycled product content
21 requirements apply to a category of covered product, and annually
22 thereafter, the department shall determine the penalty for the
23 previous calendar year based on the postconsumer recycled content
24 requirement of the previous calendar year. The department shall
25 calculate the amount of the penalty based upon the amounts in pounds
26 in the aggregate of virgin plastic, postconsumer recycled content
27 plastic, and any other plastic per category used by the producer to
28 produce covered products sold or offered for sale in or into
29 Washington state, in accordance with the following:

30 (a)(i) The annual penalty amount assessed to a producer must
31 equal the product of both of the following: The total pounds of
32 plastic used per category multiplied by the relevant minimum
33 postconsumer recycled plastic target percentage, less the pounds of
34 total plastic multiplied by the percent of postconsumer recycled
35 plastic used; multiplied by 20 cents.

36 (ii) Example: [(Total pounds of plastic used x minimum
37 postconsumer recycled plastic target percentage) - (Total pounds of
38 plastic used x postconsumer recycled plastic percentage used)] x 20
39 cents.

1 (b) For the purposes of (a) of this subsection, both of the
2 following apply:

3 (i) The total pounds of plastic used must equal the sum of the
4 amount of virgin plastic, postconsumer recycled content plastic, and
5 any other plastic used by the producer, as reported pursuant to RCW
6 70A.245.030.

7 (ii) If the product calculated pursuant to (a) of this subsection
8 is equal to or less than zero, the department may not assess a
9 penalty.

10 (3) (a) (i) The department shall consider granting a reduction of
11 penalties assessed pursuant to this section for the purpose of
12 meeting the minimum postconsumer recycled content requirements
13 required pursuant to RCW 70A.245.020.

14 (ii) In determining whether to grant the reduction pursuant to
15 (a)(i) of this subsection, the department shall consider, at a
16 minimum, all of the following factors:

17 (A) Anomalous market conditions;

18 (B) Disruption in, or lack of supply of, recycled plastics; and

19 (C) Other factors that have prevented a producer from meeting the
20 requirements.

21 (b) In lieu of or in addition to assessing a penalty under this
22 section, the department may require a producer to submit a corrective
23 action plan detailing how the producer plans to come into compliance
24 with ~~((RCW 70A.245.020))~~ the minimum postconsumer recycled content
25 requirements of this chapter.

26 (4) For the purposes of determining compliance with the
27 postconsumer recycled content requirements of this chapter, the
28 department may consider the date of manufacture of a covered product
29 or the container of a covered product.

30 (5) A producer shall pay the penalty assessed pursuant to this
31 section, as applicable, based on the information reported to the
32 department as required under RCW 70A.245.030 in the form and manner
33 prescribed by the department.

34 (6) A producer may appeal the penalty assessed under this section
35 to the pollution control hearings board within 30 days of assessment.

36 (7) Penalties collected under this section must be deposited in
37 the recycling enhancement account created in RCW 70A.245.100.

38 **Sec. 405.** RCW 70A.245.060 and 2021 c 313 s 7 are each amended to
39 read as follows:

1 (1) Beginning January 1, 2023, producers shall label each package
2 containing plastic trash bags sold, offered for sale, or distributed
3 in or into Washington with:

4 (a) The name of the producer and the city, state, and country
5 where the producer is located, which may be designated as the
6 location of the producer's corporate headquarters and, beginning
7 January 1, 2025, with the percentage of postconsumer recycled content
8 that the plastic trash bag contains in accordance with 16 C.F.R. Part
9 260, as it existed as of the effective date of this section; or

10 (b) A uniform resource locator or quick response code to an
11 internet website that contains the information required pursuant to
12 (a) of this subsection.

13 (2)(a) The provisions of subsection (1) of this section do not
14 apply to a plastic bag that is designed and manufactured to hold,
15 store, or transport dangerous waste or biomedical waste.

16 (b) For the purposes of this subsection:

17 (i) "Biomedical waste" means any waste defined as that term under
18 RCW 70A.228.010; and

19 (ii) "Dangerous waste" means any waste defined as dangerous
20 wastes under RCW 70A.300.010.

21 **Sec. 406.** RCW 70A.245.090 and 2021 c 313 s 12 are each amended
22 to read as follows:

23 (1) The department may conduct audits and investigations for the
24 purpose of ensuring compliance with (~~RCW 70A.245.020 and~~
25 ~~70A.245.040~~) the postconsumer recycled content requirements of this
26 chapter based on the information reported under RCW 70A.245.030.

27 (2) The department shall annually publish a list of registered
28 producers of covered products subject to minimum postconsumer
29 recycled content requirements and associated brand names, their
30 compliance status, and other information the department deems
31 appropriate on the department's website.

32 (3) To assist regulated parties with the requirements specified
33 under RCW 70A.245.070 and 70A.245.080, the department:

34 (a) Must prepare and post on its website information regarding
35 the prohibitions on the sale and distribution of expanded polystyrene
36 products as specified under RCW 70A.245.070 and restrictions on the
37 provision of optional serviceware under RCW 70A.245.080;

38 (b) For education and outreach to help implement RCW 70A.245.070
39 and 70A.245.080, may develop culturally appropriate and translated

1 educational materials and resources for the state's diverse ethnic
2 populations from existing materials used by local jurisdictions and
3 other states.

4 (4) The department may adopt rules as necessary to administer,
5 implement, and enforce this chapter.

6 **Sec. 407.** RCW 70A.245.110 and 2021 c 313 s 14 are each amended
7 to read as follows:

8 The recycled content account is created in the custody of the
9 state treasurer. All receipts received by the department under RCW
10 70A.245.020 must be deposited in the account. Only the director of
11 the department or the director's designee may authorize expenditures
12 from the account. The account is subject to the allotment procedures
13 under chapter 43.88 RCW, but an appropriation is not required for
14 expenditures. Expenditures from the account may be used by the
15 department only for implementing, administering, and enforcing (~~the~~
16 ~~requirements of RCW 70A.245.020 through 70A.245.060 and 70A.245.090~~
17 ~~(1), (2), and (4))~~ the provisions of this chapter related to minimum
18 postconsumer recycled content of products.

19 **Sec. 408.** RCW 70A.245.120 and 2021 c 313 s 15 are each amended
20 to read as follows:

21 (1) Subject to the availability of amounts appropriated for this
22 specific purpose prior to January 1, 2028, the department shall
23 contract with a research university or an independent third-party
24 consultant to study the plastic resin markets for all of the
25 following:

26 (a) Analyzing market conditions and opportunities in the state's
27 recycling industry for meeting the minimum postconsumer recycled
28 content requirements for covered products pursuant to (~~RCW~~
29 ~~70A.245.020 and 70A.245.030)) this chapter; and~~

30 (b) Determining the data needs and tracking opportunities to
31 increase the transparency and support of a more effective, fact-based
32 public understanding of the recycling industry.

33 (2) If funding is provided pursuant to subsection (1) of this
34 section and the department undertakes the study, the study must be
35 completed by May 1, 2029.

36 (3) This section expires July 1, 2029.

1 **PART 5**

2 **MISCELLANEOUS PROVISIONS**

3 NEW SECTION. **Sec. 501.** UTILITIES AND TRANSPORTATION COMMISSION
4 REPORT TO THE LEGISLATURE. (1) By December 1, 2024, the utilities and
5 transportation commission, in consultation with counties, cities, and
6 regulated solid waste collection companies, must submit a report to
7 the appropriate committees of the legislature addressing how to
8 improve processes, including increasing the number of customers
9 served and improving the ease of administration, for providing
10 discounts for low-income solid waste collection company customers.

11 (2) The utilities and transportation commission's recommendations
12 may include proposed changes to the provisions of RCW 81.77.195. The
13 commission's recommendations must consider how local governments or
14 nonprofit partners should certify the eligibility of low-income
15 customers for discounts, and the appropriate role of the commission
16 in approving proposed rates, charges, and services and in setting
17 standards for low-income solid waste collection rate discount
18 eligibility.

19 **Sec. 502.** RCW 70A.245.100 and 2021 c 313 s 13 are each amended
20 to read as follows:

21 The recycling enhancement account is created in the custody of
22 the state treasurer. All penalties collected by the department
23 pursuant to RCW 70A.245.040 (~~and~~), 70A.245.050, and section 210 of
24 this act must be deposited in the account. Only the director of the
25 department or the director's designee may authorize expenditures from
26 the account. The account is subject to the allotment procedures under
27 chapter 43.88 RCW, but an appropriation is not required for
28 expenditures. Expenditures from the account may be used by the
29 department only for providing grants to local governments for the
30 purpose of supporting local solid waste and financial assistance
31 programs.

32 **Sec. 503.** RCW 70A.245.110 and 2021 c 313 s 14 are each amended
33 to read as follows:

34 The recycled content account is created in the custody of the
35 state treasurer. All receipts received by the department under RCW
36 70A.245.020 and fees paid under section 210 of this act must be
37 deposited in the account. Only the director of the department or the

1 director's designee may authorize expenditures from the account. The
2 account is subject to the allotment procedures under chapter 43.88
3 RCW, but an appropriation is not required for expenditures.
4 Expenditures from the account may be used by the department only for
5 implementing, administering, and enforcing the requirements of RCW
6 70A.245.020 through 70A.245.060 (~~and~~), 70A.245.090 (1), (2), and
7 (4), and sections 209 and 210 of this act.

8 **Sec. 504.** RCW 43.21B.110 and 2023 c 455 s 5, 2023 c 434 s 20,
9 2023 c 344 s 5, and 2023 c 135 s 6 are each reenacted and amended to
10 read as follows:

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

18 (a) Civil penalties imposed pursuant to RCW 18.104.155,
19 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070,
20 70A.515.060, 70A.245.040, 70A.245.050, section 210 of this act,
21 70A.245.070, 70A.245.080, 70A.245.130, 70A.245.140, 70A.65.200,
22 70A.455.090, 70A.550.030, 70A.555.110, 70A.560.020, 76.09.170,
23 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144,
24 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, 70A.555.110, 70A.560.020, 86.16.020,
28 88.46.070, 90.14.130, 90.46.250, 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. 505.** RCW 70A.65.260 and 2023 c 475 s 939 are each amended
16 to read as follows:

17 (1) The climate commitment account is created in the state
18 treasury. The account must receive moneys distributed to the account
19 from the climate investment account created in RCW 70A.65.250. Moneys
20 in the account may be spent only after appropriation. Projects,
21 activities, and programs eligible for funding from the account must
22 be physically located in Washington state and include, but are not
23 limited to, the following:

24 (a) Implementing the working families' tax credit in RCW
25 82.08.0206;

26 (b) Supplementing the growth management planning and
27 environmental review fund established in RCW 36.70A.490 for the
28 purpose of making grants or loans to local governments for the
29 purposes set forth in RCW 43.21C.240, 43.21C.031, 36.70A.500, and
30 36.70A.600, for costs associated with RCW 36.70A.610, and to cover
31 costs associated with the adoption of optional elements of
32 comprehensive plans consistent with RCW 43.21C.420;

33 (c) Programs, activities, or projects that reduce and mitigate
34 impacts from greenhouse gases and copollutants in overburdened
35 communities, including strengthening the air quality monitoring
36 network to measure, track, and better understand air pollution levels
37 and trends and to inform the analysis, monitoring, and pollution
38 reduction measures required in RCW 70A.65.020;

1 (d) Programs, activities, or projects that deploy renewable
2 energy resources, such as solar and wind power, and projects to
3 deploy distributed generation, energy storage, demand-side
4 technologies and strategies, and other grid modernization projects;

5 (e) Programs, activities, or projects that increase the energy
6 efficiency or reduce greenhouse gas emissions of industrial
7 facilities including, but not limited to, proposals to implement
8 combined heat and power, district energy, or on-site renewables, such
9 as solar and wind power, to upgrade the energy efficiency of existing
10 equipment, to reduce process emissions, and to switch to less
11 emissions intensive fuel sources;

12 (f) Programs, activities, or projects that achieve energy
13 efficiency or emissions reductions in the agricultural sector
14 including:

15 (i) Fertilizer management;

16 (ii) Soil management;

17 (iii) Bioenergy;

18 (iv) Biofuels;

19 (v) Grants, rebates, and other financial incentives for
20 agricultural harvesting equipment, heavy duty trucks, agricultural
21 pump engines, tractors, and other equipment used in agricultural
22 operations;

23 (vi) Grants, loans, or any financial incentives to food
24 processors to implement projects that reduce greenhouse gas
25 emissions;

26 (vii) Renewable energy projects;

27 (viii) Farmworker housing weatherization programs;

28 (ix) Dairy digester research and development;

29 (x) Alternative manure management; and

30 (xi) Eligible fund uses under RCW 89.08.615;

31 (g) Programs, activities, or projects that increase energy
32 efficiency in new and existing buildings, or that promote low carbon
33 architecture, including use of newly emerging alternative building
34 materials that result in a lower carbon footprint in the built
35 environment over the life cycle of the building and component
36 building materials;

37 (h) Programs, activities, or projects that promote the
38 electrification and decarbonization of new and existing buildings,
39 including residential, commercial, and industrial buildings;

1 (i) Programs, activities, or projects that improve energy
2 efficiency, including district energy, and investments in market
3 transformation of high efficiency electric appliances and equipment
4 for space and water heating;

5 (j) Clean energy transition and assistance programs, activities,
6 or projects that assist affected workers or people with lower incomes
7 during the transition to a clean energy economy, or grow and expand
8 clean manufacturing capacity in communities across Washington state
9 including, but not limited to:

10 (i) Programs, activities, or projects that directly improve
11 energy affordability and reduce the energy burden of people with
12 lower incomes, as well as the higher transportation fuel burden of
13 rural residents, such as bill assistance, energy efficiency, and
14 weatherization programs;

15 (ii) Community renewable energy projects that allow qualifying
16 participants to own or receive the benefits of those projects at
17 reduced or no cost;

18 (iii) Programs, activities, or other worker-support projects for
19 bargaining unit and nonsupervisory fossil fuel workers who are
20 affected by the transition away from fossil fuels to a clean energy
21 economy. Worker support may include, but is not limited to: (A) Full
22 wage replacement, health benefits, and pension contributions for
23 every worker within five years of retirement; (B) full wage
24 replacement, health benefits, and pension contributions for every
25 worker with at least one year of service for each year of service up
26 to five years of service; (C) wage insurance for up to five years for
27 workers reemployed who have more than five years of service; (D) up
28 to two years of retraining costs, including tuition and related
29 costs, based on in-state community and technical college costs; (E)
30 peer counseling services during transition; (F) employment placement
31 services, prioritizing employment in the clean energy sector; and (G)
32 relocation expenses;

33 (iv) Direct investment in workforce development, via technical
34 education, community college, institutions of higher education,
35 apprenticeships, and other programs including, but not limited to:

36 (A) Initiatives to develop a forest health workforce established
37 under RCW 76.04.521; and

38 (B) Initiatives to develop new education programs, emerging
39 fields, or jobs pertaining to the clean energy economy;

1 (v) Transportation, municipal service delivery, and technology
2 investments that increase a community's capacity for clean
3 manufacturing, with an emphasis on communities in greatest need of
4 job creation and economic development and potential for commute
5 reduction;

6 (k)(i) Programs, activities, or projects that reduce emissions
7 from landfills and waste-to-energy facilities through diversion of
8 organic materials, methane capture or conversion strategies,
9 installation of gas collection devices and gas control systems,
10 monitoring and reporting of methane emissions, or other means,
11 prioritizing funding needed for any activities by local governments
12 to comply with chapter 70A.540 RCW;

13 (ii) The activities of the department under sections 206 through
14 208 and 211 of this act are eligible uses of the climate commitment
15 account under (k)(i) of this subsection;

16 (l) Carbon dioxide removal projects, programs, and activities;
17 and

18 (m) Activities to support efforts to mitigate and adapt to the
19 effects of climate change affecting Indian tribes, including capital
20 investments in support of the relocation of Indian tribes located in
21 areas at heightened risk due to anticipated sea level rise, flooding,
22 or other disturbances caused by climate change. The legislature
23 intends to dedicate at least \$50,000,000 per biennium from the
24 account for purposes of this subsection.

25 (2) Moneys in the account may not be used for projects or
26 activities that would violate tribal treaty rights or result in
27 significant long-term damage to critical habitat or ecological
28 functions. Investments from this account must result in long-term
29 environmental benefits and increased resilience to the impacts of
30 climate change.

31 (3) During the 2023-2025 fiscal biennium, the legislature may
32 appropriate moneys from the climate commitment account for activities
33 related to environmental justice, including implementation of chapter
34 314, Laws of 2021.

35 NEW SECTION. Sec. 506. Sections 201 through 211 of this act
36 constitute a new chapter in Title 70A RCW.

37 NEW SECTION. Sec. 507. Sections 301 through 308 of this act are
38 each added to chapter 70A.245 RCW.

1 NEW SECTION. **Sec. 508.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

--- **END** ---