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**SENATE BILL 5502**

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**State of Washington 69th Legislature 2025 Regular Session**

**By** Senators Robinson, Shewmake, Hasegawa, and Saldaña

AN ACT Relating to recycling and waste reduction; amending RCW 82.19.050; adding a new section to chapter 82.04 RCW; adding a new chapter to Title 70A RCW; creating a new section; and prescribing penalties.

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

NEW SECTION. **Sec.**  FINDINGS—INTENT. The legislature finds that Washington's current recycling system does not collect and recycle the majority of the 3.8 billion glass, plastic, and metal beverage containers put onto the market each year to their highest and best use in order to optimize the economic and environmental benefits of recycling for Washington residents.

The legislature recognizes improved recycling for beverage containers will help the state to reduce greenhouse gas emissions, reduce litter and specifically plastic pollution, expand opportunities for reusable containers, and support state and regional businesses to build a circular economy. Higher-quality materials always hold greater economic value and offer more diverse end markets. The recent struggles of regional end markets expose critical weaknesses in Washington's fragmented recycling system and underscore the urgent need for comprehensive reforms to divert recyclable materials, like glass, from landfills and ensure they are transformed into valuable new products. Recycling refund programs provide a proven solution by delivering high quality, source separated glass, plastic, and metal containers that will revitalize end markets and support robust local recycling infrastructure.

The legislature finds that by enacting a recycling refund program for glass, plastic, and metal beverage containers within an extended producer responsibility framework has been shown to be the most effective method for the recovery, reuse, and recycling of beverage containers and all packaging waste. By increasing recovery rates for beverage containers, these systems will help companies who manufacture these products meet recycled content goals and reduce their environmental footprint.

Recycling refund programs in other states have proven to drive up recycling rates by providing a direct financial incentive for residents to return used containers. In addition, these systems also have proven to reduce litter. Packaging pollution remains a significant issue in Washington, with over 11.6 million pounds of litter entering public parks annually and more than 26,000,000 pounds accumulating along roadsides. Despite spending $12,000,000 annually on cleanup efforts, only a fraction of the problem is addressed. In contrast, states with recycling refund programs have reported reductions in beverage container litter by up to 84 percent, while achieving recovery rates for plastic bottles that are 3.5 times higher than states without such programs—an essential step in preventing ocean plastics and other environmental harm.

The legislature intends for recycling refunds to play a pivotal role in contributing to cleaner communities, a healthier recycling ecosystem, and stronger domestic manufacturing and circular economy.

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

(1) "Applicable refund value" means the value established under section 9 of this act.

(2) "Beverage" means a drinkable liquid intended for human oral consumption. "Beverage" does not include: (a) A drug regulated under the federal food, drug, and cosmetic act, 21 U.S.C. Sec. 301 et seq.; (b) 100 percent fluid milk infant formula; or (c) a meal replacement liquid.

(3) "Beverage container" means any prepackaged container for beverages.

(4) "Brand" means a name, symbol, word, logo, or mark that identifies an item and attributes the item and its components, including packaging, to the brand owner of the item.

(5) "Brand owner" means a person or entity that owns or licenses a brand or that otherwise has rights to market a product under the brand, whether or not the brand's trademark is registered.

(6) "Centralized processing facilities" means a facility that sorts, bales, and aggregates covered beverage containers and associated materials for the purpose of recycling.

(7) "Consumer" means an individual in this state who purchases a beverage in a beverage container for consumption.

(8) "Contracted redemption pick-up operators" means affiliated or unaffiliated companies or organizations that provide individualized valet or pick-up services of aggregated covered beverage containers for single-family or multifamily households.

(9) "Covered beverage container" means any beverage container subject to a recycling refund. At a minimum, this includes glass, plastic, and metal cans or bottles with a capacity of one gallon or less. Recycling refund producer responsibility organizations must submit a proposed list of covered beverage containers as part of their program and consumer education plan, subject to approval by the department. Beverage containers must have a visible brand to be considered a covered beverage container and to be eligible for a refund value.

(10) "Department" means the department of ecology.

(11) "Express redemption site" means a designated return point or avenue that allows consumers to return covered beverage containers. These locations will not require cash handling on-site, rather, upon return, containers will be transported to centralized processing facilities and refunds will be credited to the consumer's virtual account held by the recycling refund producer responsibility organization or their designee. This may include bag-drop systems, reverse vending machines, or other collection modalities to enhance convenience and accessibility for consumers.

(12) "Full service redemption site" means a return point or avenue where individuals may return covered beverage containers to receive immediate refunds for their returns.

(13) "Local government" has the same meaning as in RCW 39.46.020.

(14) "Material recovery facility" means a facility that collects, compacts, repackages, sorts, or processes for transport source separated material for the purpose of recycling.

(15) "On-site consumption" means a beverage in a covered beverage container sold by an establishment that is intended to be consumed and retained at the same establishment after consumption.

(16) "Packaging manufacturer" means any person, firm, association, partnership, or corporation that produces packaging or a packaging component of covered beverage containers.

(17) "Producer" means the brand owner responsible for the brand visible on a covered beverage container and who is responsible for compliance with the requirements under this chapter for a covered beverage container that is sold or offered for sale, either physically or via e-commerce, in this state. "Producer" does not include:

(a) Government entities; or

(b) Registered 501(c)(3) charitable organizations and 501(c)(4) social welfare organizations.

(18) "Recycling refund" means a covered beverage container redemption program that pays a per-unit refund value to consumers for covered beverage containers and collects and processes covered beverage containers as described in this chapter.

(19) "Recycling refund advisory council" means the council established in section 8 of this act.

(20) "Recycling refund processing facility" means a location that is designated by the recycling refund producer responsibility organization to receive, sort, and prepare beverage containers collected through the system for recycling or reuse.

(21) "Recycling refund producer responsibility organization" means a nonprofit corporation that is tax exempt under chapter 501(c)(3) of the federal internal revenue code created by a group of recycling refund covered beverage container producers to implement activities under this act.

(22) "Redemption site" means a public or private place that provides the ability to redeem a covered beverage container for which a recycling refund value was paid.

(23) "Retail establishment" means any person, corporation, partnership, business, dealer, facility, vendor, organization, or individual that sells or provides merchandise, goods, or materials directly to a consumer that engages in the sale of beverages that are covered beverage containers intended for consumption off-site.

(24) "Service provider" means an entity that provides recycling collection or recycling processing services for covered beverage containers. A government entity that provides, contracts for, or otherwise arranges for another party to provide recycling collection or recycling processing services for covered beverage container materials within its jurisdiction may be a service provider regardless of whether it provided, contracted, or otherwise arranged for similar services before the approval of the applicable plan.

(25) "Socially vulnerable populations" means populations including, but not limited to, individuals with disabilities, individuals without vehicles, older adults, individuals with low incomes or experiencing homelessness, and individuals with limited English proficiency.

NEW SECTION. **Sec.**  PRODUCER AND RECYCLING REFUND PRODUCER RESPONSIBILITY ORGANIZATION REGISTRATION. (1) By March 1, 2026, each producer must appoint a recycling refund producer responsibility organization to address its covered materials.

(2) By May 1, 2026, and annually thereafter, a recycling refund producer responsibility organization must register with the department on behalf of its producers. A registration submission by a recycling refund producer responsibility organization must include the following:

(a) Contact information for a person responsible for implementing an approved plan;

(b) A list of all member producers that have entered into written agreements to operate under an approved plan by the recycling refund producer responsibility organization, copies of the written agreements for each member producer and, except in the first year of registration, a list of all brands of each producer's covered materials introduced;

(c) A plan for recruiting additional member producers and executing written agreements confirming producers will operate under an approved plan administered by the recycling refund producer responsibility organization;

(d) A list of current board members and the executive director if different than the person responsible for implementing approved plans; and

(e) Documentation demonstrating adequate financial responsibility and financial controls to ensure proper management of funds and payment of the annual registration fee to the department.

(3) By June 1, 2026, and each June 1st thereafter, recycling refund producer responsibility organizations must submit an annual registration fee to the department to fund all costs of the department to implement, administer, and enforce this chapter.

NEW SECTION. **Sec.**  PRODUCER RESPONSIBILITIES. (1) A producer must:

(a) Beginning April 1, 2026, be a member of a recycling refund producer responsibility organization registered in this state;

(b) Through a recycling refund producer responsibility organization, implement and finance a statewide program for covered beverage containers that encourages waste reduction, recycling, refill, and reuse;

(c) Maintain membership with and pay fees to the recycling refund producer responsibility organization under which they are registered; and

(d) Comply with all other applicable requirements under this chapter.

(2) Upon registration with a recycling refund producer responsibility organization under subsection (1)(a) of this section, the producer must provide the following to the recycling refund producer responsibility organization before the beverage brand is offered for sale, either physically or via e-commerce:

(a) The adequate refund value to the recycling refund producer responsibility organization to cover existing or projected refund liabilities associated with that brand, excluding units sold at on-site consumption establishments;

(b) Detailed information for the brand for the recycling refund producer responsibility organization, including:

(i) The name of the covered beverage in the beverage container as identified through the use of letters, words, or symbols on the product label affixed to, or a part of, the covered beverage container;

(ii) The type of beverage contained in the beverage container using an appropriate categorization method for beverages as determined by the recycling refund producer responsibility organization;

(iii) The number of covered beverage containers sold or offered for sale;

(iv) The volume of the beverage container;

(v) The material type of the container; and

(vi) The universal product code or European article number associated with the container.

(3) A producer must provide the brand sales information for covered beverage containers to the recycling refund producer responsibility organization under which they are registered by January 15th and July 15th of each calendar year, covering the previous six-month period.

(4) The requirements of subsection (2) of this section do not apply to units of the brand that the producer can show have been delivered for sale at an on-site consumption establishment.

(5) Beginning October 1, 2026, a producer that is not in compliance with this chapter may not sell or supply covered beverage containers into Washington.

NEW SECTION. **Sec.**  RECYCLING REFUND PRODUCER RESPONSIBILITY ORGANIZATION RESPONSIBILITIES. A recycling refund producer responsibility organization must:

(1) Beginning March 1, 2026, register with the department;

(2) By September 1, 2026, submit a one-time payment to the department, in lieu of the registration fee required in section 3 of this act, in an amount determined by the department, to cover the costs of the department under this chapter from the effective date of this section through implementation of this section;

(3) Establish an initial producer fee structure to fund the initial implementation of the program, to be used until the recycling refund producer responsibility organization has an approved program plan as required under section 7 of this act, and collect fees annually from registered producers;

(4) By January 30, 2027, submit the following:

(a) A list of its registered producers and their brands of beverages in covered beverage containers; and

(b) The total gross unit sales volume of beverages in covered beverage containers sold by its registered producers in Washington during the preceding year;

(5) By July 1, 2027, and every five years thereafter, submit a plan that meets the requirements of this chapter to the department for approval;

(6) Once the recycling program and consumer education plan is approved by the department under section 5 of this act, implement a recycling refund program as described in its approved program plan by July 1, 2028;

(7) Maintain a registry of all types of covered beverage containers sold and redeemed in this state by all registered producers;

(8) Collect the annual producer fees;

(9) Accept the adequate refund value from producers for covered beverage containers to cover existing or projected refund liabilities associated with that brand, excluding units sold to an on-site consumption establishment;

(10) Submit a proposed list of covered beverage containers and material exemptions to the department as part of the recycling refund program and consumer education plan;

(11) Submit the annual reports required under section 21 of this act;

(12) Ensure that producers operating under a recycling refund program and consumer education plan administered by the recycling refund producer responsibility organization comply with the requirements of the recycling refund program consumer education plan and with this act;

(13) Consider and respond in writing to comments received from the recycling refund advisory council;

(14) Maintain a website that includes:

(a) A searchable database of current redemption sites; and

(b) Consumer education materials about the recycling refund program;

(15) Notify the department within 30 days of a change made to the contact information for a person responsible for implementing the recycling refund producer program plan, to board membership, or to the executive director;

(16) Assist service providers to identify and use responsible end markets;

(17) Ensure timely, negotiated, and fair compensation, maintenance, and operational costs to entities that are leasing space for redemption sites; and

(18) Comply with all other applicable requirements of this chapter.

NEW SECTION. **Sec.**  DEPARTMENTOF ECOLOGY RESPONSIBILITIES. (1) The department must implement, administer, and enforce this chapter and may adopt rules as necessary for those purposes. In implementing this chapter, the department has the following responsibilities:

(a) By January 1, 2026, appoint the initial membership of the recycling refund advisory council, as required under section 8 of this act;

(b) Provide administrative and operating support to the recycling refund advisory council, as required under section 8 of this act;

(c) Consider and respond in writing to all written comments received by the recycling refund advisory council;

(d) By March 15, 2026, accept the registration of a recycling refund producer responsibility organization;

(e) By May 1, 2026, and every May 1st thereafter, determine a total annual registration fee to be paid by the recycling refund producer responsibility organization that is adequate to cover, but not exceed, the costs to implement, administer, and enforce this chapter in the preceding fiscal year;

(f) Within 120 days of receipt, review and approve, deny, or request additional information for the draft recycling refund program and consumer education plan required under section 7 of this act, and:

(i) The department must post the draft plan or plan amendment update on the department's website and allow public comment for no less than 45 days before approving, denying, or requesting additional information on the draft plan or amendment;

(ii) If the department denies or requests additional information for a draft plan or amendment, the department must provide the recycling refund producer responsibility organization with the reasons, in writing, that the plan or amendment does not meet the plan requirements of section 7 of this act. The recycling refund producer responsibility organization has 60 days from the date that the rejection or request for additional information is received to submit to the department any additional information necessary for the department's approval. The department must review and approve or disapprove the revised draft plan or amendment no later than 60 days after the department receives it;

(iii) Upon recommendation of the recycling refund advisory council, or upon the department's initiative, the department may require an amendment to the plan if the department determines that an amendment is necessary to ensure that the recycling refund producer responsibility organization maintains compliance with the requirements of this chapter; and

(iv) Prior to approving the draft plan, the department must review the convenience standards provided in the plan as required under section 11 of this act using the following criteria:

(A) Proximity to a majority of recycling refund covered materials sales in an area;

(B) Access in rural counties does not require additional vehicle miles traveled; and

(C) Redemption sites must not disproportionately impact overburdened communities or populations;

(g) Review annual reports and:

(i) Make annual reports available for public review and comment for at least 30 days;

(ii) Review within 120 days of receipt of a complete annual report;

(iii) Determine whether an annual report meets the requirements of this chapter, considering comments received under (f) of this subsection, and notify the recycling refund producer responsibility organization of the approval or reasons for denial. The recycling refund producer responsibility organization must submit a revised annual report within 60 days after receipt of the denial letter; and

(iv) Notify a recycling refund producer responsibility organization if the annual report demonstrates that a plan fails to achieve the requirements under this chapter;

(h) Establish a public website that includes:

(i) The most recent registration materials submitted by the recycling refund producer responsibility organization;

(ii) Any plan or amendment submitted by the recycling refund producer responsibility organization that is in draft form during a public comment period; and

(iii) The most recent lists of covered beverage containers developed by the recycling refund producer responsibility organization and information about any material exclusions as described in section 10 of this act.

NEW SECTION. **Sec.**  RECYCLING REFUND PROGRAM AND CONSUMER EDUCATION PLAN. The recycling refund program and consumer education plan submitted to the department must contain the following:

(1) A list of the types of covered beverage containers that will be included in the recycling refund program as well as material exemptions;

(2) Proposed targets and deadlines for reuse and refill to be achieved;

(3) A description of how the recycling refund producer responsibility organization will meet performance targets for redemption, recycling, and reuse and refill as described in section 18 of this act;

(4) How the performance targets will be measured;

(5) How to achieve the objectives for the expansion of reuse and refill systems;

(6) How the program will incentivize recyclability improvements in the design of covered beverage containers;

(7) How the proposed network of redemption sites meets the convenience standards and addresses the evaluation criteria in this act;

(8) How the program will conduct statewide education and outreach;

(9) How the program will conduct education and outreach and provide redemption sites to socially vulnerable populations;

(10) How the redemption network will be convenient and available to geographically diverse populations and to those that redeem relatively large amounts of covered beverage containers;

(11) What, if any, alternative access redemption options may be implemented to increase convenience;

(12) Descriptions of a process to develop recommendations regarding the effectiveness of the plan and a timeline for implementing the findings of those recommendations;

(13) A schedule of proposed recycling refund covered beverage container producer fees that shall:

(a) In the first fee setting period, ensure that each packaging type is responsible for covering its own associated costs for material recycling; and

(b) In subsequent fee setting periods after the first fee setting period, consider incentivizing using materials and design attributes that reduce the environmental impacts and human health impacts of covered beverage containers.

(14) A description of how the recycling refund producer responsibility organization will establish partnerships with nonprofit organizations, including:

(a) The refund value nonprofit organizations are eligible for under the program;

(b) A process for annually reporting to the department regarding the names, locations, return volume, and any other services provided through the nonprofit partnership;

(c) Locations of nonprofit partnership drop sites; and

(d) Any program rules associated with the nonprofit redemption program.

NEW SECTION. **Sec.**  RECYCLING REFUND ADVISORY COUNCIL. (1) The recycling refund advisory council is established to review activities conducted by recycling refund producer responsibility organizations created under section 3 of this act.

(2) By January 1, 2026, the department must establish and appoint the initial membership of the recycling refund advisory council. The membership of the recycling refund advisory council must consist of the following:

(a) One member representing municipal government;

(b) One member representing county government;

(c) One member representing a packaging manufacturer or trade association representing the glass beverage container sector. The packaging manufacturer of the trade association must not be a producer;

(d) One member representing a packaging manufacturer or trade association that is not a producer that represents the plastic covered beverage container sector;

(e) One member representing a packaging manufacturer or trade association that is not a producer that represents the metal covered beverage container sector;

(f) One member representing an environmental nonprofit organization;

(g) One member representing an organization that represents vulnerable populations or an individual representing the office of equity under chapter 43.06D RCW;

(h) One member that is a representative of an organization that represents individual service providers;

(i) Two members representing federally recognized tribes located in Washington state;

(j) One member representing a trade association for the retail sector;

(k) One member representing a trade association for the hospitality sector; and

(l) One member representing the recycling processing sector.

(3) The recycling refund advisory council has the following duties:

(a) Review the recycling refund program and consumer education plan and provide comments to the recycling refund producer responsibility organization and the department;

(b) Review program audits;

(c) Review annual reports and provide comments to the recycling refund producer responsibility organizations and the department; and

(d) Ensure that the recycling refund producer responsibility organization and the department are considering a broad range of perspectives in developing the recycling refund program plans and in implementing the program.

(4) The department shall provide administrative and operating support to the recycling refund advisory council and may contract with a third-party facilitator to assist in administering the activities of the recycling refund advisory council.

NEW SECTION. **Sec.**  APPLICABLEREFUND VALUE. (1) Every covered beverage container sold or offered for sale in the state has a refund value of 10 cents. The charge for the refund value of covered beverage containers must be separately stated on a receipt, invoice, or similar billing document given to the consumer.

(2) Amounts received or transferred as part of remitting the refund value on covered beverage containers within the recycling refund program shall be exempt from taxation under chapter 82.04 RCW.

(a) This exemption applies to all transactions involving remitting the refund value as it moves between producers, retail establishments, and other participants within the distribution chain, provided the amounts are designated as refunds under the recycling refund program.

(b) The exemption only applies to amounts that are directly tied to the refund value and do not present any other taxable sales, services, or revenue.

NEW SECTION. **Sec.**  MATERIAL EXCLUSIONS. A recycling refund producer responsibility organization is not required to pay refunds on:

(1) A covered beverage container visibly containing or contaminated by a substance other than water, or residue of the original contents;

(2) A covered beverage container that the recycling refund producer responsibility organization has reasonable grounds to believe was purchased in a state other than Washington; and

(3) Any beverage container that is crushed, broken, or damaged to the extent that the brand appearing on the beverage container cannot be identified. This requirement does not apply to metal and plastic covered beverage containers processed by material recovery facilities before extended producer responsibility is implemented.

NEW SECTION. **Sec.**  CONVENIENCESTANDARD FOR REDEMPTION OF CONTAINERS. A recycling refund producer responsibility organization must propose a quantitative convenience standard that is based on a combination of time, distance, and other measurable factors for redemption of covered beverage containers in the recycling refund program plan that includes the following:

(1) Ensures all consumers who pay a refund value have convenient opportunities to redeem their full refund for covered beverage containers;

(2) Provides appropriately convenient and equitable access in urban, suburban, and rural areas, and which draws upon redemption modalities including, but not limited to, express redemption sites, full-service redemption sites, alternative access plans, contracted redemption pick-up operators, and special collection events;

(3) Accounts for the total population, population density, sales of covered beverage containers in regions of the state, and proximity to centers of beverage sales business activity; and

(4) Incorporates a broad range of entities that may opt to serve as a redemption location including, but not limited to, municipal facilities, public spaces, nonprofit organizations, retailers, religious and charitable organizations, sporting events, and waste management facilities.

NEW SECTION. **Sec.**  REQUIREMENTSFOR REDEMPTION SITES. (1) Each redemption site must collect all covered beverage containers subject to the recycling refund except as excluded by section 10 of this act. Any location serving as a redemption site shall be fairly compensated through a mutual agreement by the recycling refund producer responsibility organization for providing physical space for redemption and associated maintenance and operational costs of the redemption sites, for the duration of the approved program plan.

(2) A recycling refund producer responsibility organization shall provide a sufficient number and distribution of redemption sites to achieve the redemption rate performance and convenience requirements of this chapter. A recycling refund producer responsibility organization's plan submitted to the department must provide an analysis and rationale supporting how the recycling refund producer responsibility organization's proposed distribution of redemption sites is designed to meet the redemption rate performance and convenience requirements included in this chapter.

(3) Local governments, nonprofit organizations, individuals, and private organizations are eligible to host redemption sites.

(4) A recycling refund producer responsibility organization may accept direct, sorted returns in commercial quantities at its processing facilities from full service redemption sites or express redemption sites.

NEW SECTION. **Sec.**  EXPRESSREDEMPTION SITES. (1) A recycling refund producer responsibility organization must, at its own cost, provide convenient designated return points or avenues that allow consumers to return covered beverage containers. These sites shall be known as express redemption sites and will not require cash handling on-site, rather upon return, containers will be transported to centralized processing facilities, and refunds will be credited to the consumer's virtual account. If bag-drop programs are deployed, the recycling refund producer responsibility organization must credit the cost of any required bag purchase back to the consumer when the bag is returned and processed through the recycling refund system.

(2) Designated return points must be located a convenient distance from a retail establishment, located at a publicly owned facility, located at a privately owned facility, or are at a location otherwise convenient for consumers. Express drop-off redemption sites may be located in the parking lot of a retail establishment, parking lot of a privately owned facility, parking lot of a publicly owned facility, public right-of-way, or any other location convenient to consumers.

(3) Storage and drop-off containers sited for the purpose of fulfilling the requirements of this section are considered temporary mobile containers regardless of whether they have wheels, have electrical power, or are affixed to the site.

(4) If the standard bags for the bag-drop programs are made of plastic film, the recycling refund producer responsibility organization must:

(a) Ensure that the standard bags have a minimum of 50 percent postconsumer recycled content;

(b) Demonstrate, upon request of the department, that the waste film from the standard bag production or from retired standard bags is being recycled at responsible end markets; and

(c) Include instructions on how the bag should be utilized and recycled through a drop-off program.

NEW SECTION. **Sec.**  NONPROFIT RECYCLING REFUND REDEMPTION PROGRAM. (1) A recycling refund producer responsibility organization may administer a program for nonprofit organizations to participate in the recycling refund redemption program. The nonprofit program may provide, either directly or through partnerships with local service providers or local governments, support services for socially vulnerable populations.

(2) A recycling refund producer responsibility organization may administer a program to also accept direct, sorted returns in large volume quantities at its processing facilities for an additional refund value premium if the containers are returned by organizations certified as a nonprofit organization pursuant to section 501(c)(3) of the internal revenue code that are approved by the recycling refund producer responsibility organization and serve very low-income individuals who rely on regular container refunds through the recycling refund system as a source of daily funds. The recycling refund producer responsibility organization may provide pick-up service for containers collected under this section.

(3) To limit fraud and ensure that services are deployed where they are most needed, a recycling refund producer responsibility organization may approve or deny partnerships described in this section at its sole discretion.

NEW SECTION. **Sec.**  RETAILESTABLISHMENTS. (1) Each retail establishment must charge for the refund value of covered beverage containers. The refund value shall be separately stated on a receipt, invoice, or similar billing document given to the consumer.

(2) A retail establishment larger than 20,000 square feet must sell the standard bags for the redemption program at the price established by a recycling refund producer responsibility organization.

(3) A retail establishment may choose to host an express redemption site or host a collection event, or both, in their parking lot through mutual agreement with a recycling refund producer responsibility organization who will provide fair compensation and assume lease costs, and all operational and maintenance costs for the redemption site. While retail establishments may choose to host a redemption site, nothing in this chapter shall be interpreted to create a legal obligation on the part of a retail establishment to either accept a returned covered beverage container or allow a redemption site to be sited at a retail establishment.

(4) A retail establishment that chooses to host an express redemption site is eligible to have a self-serve kiosk, located at the retailer at no charge by a recycling refund producer responsibility organization, to facilitate the printing of redemption vouchers and pay the value of redemption vouchers to consumers that can be used on the premises.

(5) A recycling refund producer responsibility organization shall reimburse retailers for the value of valid vouchers redeemed by consumers.

(6) Retailers may offer a voucher redemption option for recycling refund values to be used as store credit. Under this program, retailers may offer consumers an additional bonus above the standard refund value when redeemed deposit refunds are applied toward purchases within the store.

NEW SECTION. **Sec.**  ON-SITECONSUMPTION ESTABLISHMENTS. (1) Recycling refund producer responsibility organizations shall facilitate the collection of covered beverage containers from on-site establishments. Recycling refund producer responsibility organizations shall promote efficiency and mitigate burdens in collecting empty beverage containers and provide additional material assistance for establishments under 5,000 square feet to comply with this act.

(2) On-site consumption establishments may choose to host an express redemption site on their property through mutual agreement with a recycling refund producer responsibility organization which will provide fair compensation and assume lease costs, and all operational and maintenance costs for the site.

(3) A recycling refund producer responsibility organization may work with and compensate distributors, contracted express redemption site operators, or other entities to help facilitate the collection of covered beverage containers from on-site consumption establishments for recycling.

NEW SECTION. **Sec.**  USEOF UNREDEEMED REFUNDS. Recycling refund producer responsibility organizations may use any refund value that is not redeemed by the consumer for any of the following purposes:

(1) Education and outreach activities to encourage redemption activity;

(2) Improving existing redemption rates;

(3) Increasing the number of redemption sites; or

(4) Other activities that are described in the recycling refund program plan that directly contribute to achieving the performance requirements described in section 18 of this act and the convenience standards described in section 11 of this act.

NEW SECTION. **Sec.**  PERFORMANCEREQUIREMENTS FOR THE RECYCLING REFUND PROGRAM. Recycling refund producer responsibility organizations must achieve the following performance requirements:

(1) By the end of year two of the program, the redemption rate must be greater than 65 percent aggregated for all covered beverage containers;

(2) By the end of year five of the program, the redemption rate must be greater than 80 percent aggregated for all covered beverage containers;

(3) Develop a reuse and refill performance target that is to increase each year after the first plan period;

(4) Demonstrate that convenience standards as required under section 11 of this act have been achieved or exceeded;

(5) Provide results of consumer awareness and behavior surveys.

NEW SECTION. **Sec.**  REFUNDVALUE TO MATERIAL RECOVERY FACILITIES. (1) Starting after the first full month that covered beverage containers are sold with the applicable refund value, recycling refund producer responsibility organizations shall make a monthly payment directly to each material recovery facility who complies with the reporting criteria outlined in section 21 of this act. Payments are to be based on the data submitted by the material recovery facility under subsection (3) of this section.

(2) Recycling refund producer responsibility organizations shall establish a quality standard for each material.

(3) On a monthly basis, the operator of a material recovery facility shall submit the following information to the recycling refund producer responsibility organization:

(a) The number of tons of covered beverage containers the facility received for processing in the previous month by material; and

(b) The number of tons of covered beverage containers the facility transferred to additional materials processing or end markets.

(4) A recycling refund producer responsibility organization must convert the material tons to unit equivalent and pay the facilities based on covered beverage containers that meet the designated quality standards.

(5) The monthly payment required to material recovery facilities must be a payment equivalent to at least 50 percent of the refund value for covered beverage containers for each covered beverage container material that the material recovery facility transferred to additional materials processing or end markets.

(6) Material recovery facilities must share the payments with their consumers consistent with their bundled services or processing contract agreements and supply agreements so that communities and generators receive the appropriate amount of the refund values paid to material recovery facilities and drop-off facilities.

(7) The operators of material recovery facilities shall use an industry standard scale to measure the weight of all covered beverage container materials that enter the facility.

(8) A recycling refund producer responsibility organization may conduct quarterly audits on the quality and quantity of the material recovery facilities' material upon request by the organization and at the organization's expense.

(9) A recycling refund producer responsibility organization may partner with a material recovery facility to provide space and install the necessary equipment to colocate a recycling refund processing facility in the same vicinity. Recycling refund processing facilities shall be designated by the recycling refund producer responsibility organization to receive, sort, and prepare beverage containers collected through the system for recycling or reuse.

(10) Monthly payments to the material recovery facilities as provided for under this section are no longer required after the first program plan period concludes under the recycling refund program.

NEW SECTION. **Sec.**  COORDINATIONPLAN. (1) If an extended producer responsibility program for paper and packaging is enacted in the state, the producer responsibility organization for packaging and a recycling refund producer responsibility organization must create a coordination plan to ensure that programs are complementary and that all targets are met. As part of the coordination plan, the packaging producer responsibility organization and a recycling refund producer responsibility organization are to identify actions to jointly optimize infrastructure for reuse and refill programs for recycling refund and packaging covered materials.

(2) The coordination plan between the producer responsibility organization for paper and packaging and a recycling refund producer responsibility organization must contain the following:

(a) Education and outreach activities to ensure consistent messaging to consumers;

(b) A description of a reciprocal compensation mechanism such that a recycling refund producer responsibility organization pays the paper and packaging producer responsibility organization for covered beverage containers in material recovery facilities, and the packaging producer responsibility organization pays a recycling refund producer organization for secondary packaging managed through the recycling refund system;

(c) Mechanisms to evaluate packages and formats managed by each program and consider opportunities for adding and removing packages from one program to the other;

(d) An evaluation strategy to assess opportunities to coordinate identification of, and efficient access to, processing infrastructure, reuse and refill infrastructure, and end markets.

NEW SECTION. **Sec.**  REPORTING. (1) Recycling refund producer responsibility organizations must submit an annual report to the department that contains the following:

(a) A list of registered producers participating in the program and covered beverage containers supplied into the state;

(b) The total gross unit sales volume of beverages in covered beverage containers sold by its registered producers in Washington during the preceding year;

(c) Covered beverage containers redeemed and recycled through the program, by material type;

(d) Redemption sites and processing facilities participating in the recycling refund program; and

(e) Verification of covered beverage containers handled at responsible end markets.

(2) An evaluation of the convenience of the program including:

(a) Proximity of redemption sites to the volume covered beverage container materials sales in each area of the state;

(b) Verification that access to redemption sites in rural counties does not require additional vehicle miles traveled;

(c) Documentation that access to redemption sites in urban areas builds on existing recycling convenience;

(d) Documentation of large volume redemption options;

(e) An evaluation of whether redemption options disproportionately burden underserved communities or socially vulnerable populations;

(f) Results of consumer awareness and behavior surveys;

(g) Progress made toward the performance targets reported in the same units used to establish producer fees under section 5 of this act and reported statewide, for each county, and for each city with a population greater than 1.5 percent of the state population, including the amount of recycling refund covered beverage containers successfully reused, recycled, and disposed of by recycling refund covered materials type and the type of redemption site used;

(h) The total cost to implement the program and a detailed description of program expenditures by category, including:

(i) The total amount of producer fees collected, unclaimed refunds held, and scrap value realized on the sale of recycled commodities;

(ii) A description of infrastructure investments made;

(iii) A breakdown of reimbursements to redemption sites and service providers in the state; and

(iv) A copy of a financial audit of program operations conducted by an independent auditor;

(i) A list of producers found to be out of compliance with this act and actions taken by the recycling refund producer responsibility organization to return producers to compliance, and notification of any producers that are no longer participating in the organization or have been expelled due to their lack of compliance with proposed amendments to the recycling refund program plan to improve program performance or reduce costs, including changes to producer fees, infrastructure investments, reimbursement rates, or the refund value; and

(j) Recommendations for additions or removals of covered beverage containers to the list developed under section 5 of this act.

(3) All data reported by a recycling refund producer responsibility organization under this section must, at the request of the department no more than once annually, be audited by an independent third party. A recycling refund producer responsibility organization is responsible for all costs associated with the data audit. Auditable data shall only include data held by a recycling refund producer responsibility organization. Auditing of any data inputs to a recycling refund producer responsibility organization is the responsibility of the recycling refund producer responsibility organization.

(4) A recycling refund producer responsibility organization that submits information or records to the department under this chapter may request that a portion of the information or records be made available only for the confidential use of the department, the director, or the appropriate division of the department. The director of the department shall give consideration to the request, and if the director determines that this action is not detrimental to the public interest and is otherwise in accordance with policies and purposes of chapter 43.21A RCW, the director must grant the request for the information to remain confidential as authorized in RCW 43.21A.160.

NEW SECTION. **Sec.**  Arecycling refund producer responsibility organization that fails to meet a performance target approved in a recycling refund program plan must, within 90 days of filing an annual report under section 21 of this act, file with the department an explanation of the factors contributing to the failure and propose an amendment to the recycling refund program plan specifying changes in operations that the recycling refund producer responsibility organization will make that are designed to achieve the performance targets. An amendment filed under this section must be reviewed by the recycling refund advisory council and reviewed and approved by the department.

NEW SECTION. **Sec.**  By August 1, 2028, and each year thereafter, each material recovery facility and material processor that receives recycling refund program covered materials must report to the department the following:

(1) Amount of recycling refund covered materials accepted by the material recovery facility or processor, and the location of generation;

(2) Amount of material sold to market, by commodity type;

(3) Amount of residue or waste that was generated;

(4) End markets where materials were marketed, by region and type of end use; and

(5) Verification that end markets are responsible and compliant with program requirements.

NEW SECTION. **Sec.**  ANTICOMPETITIVECONDUCT. A recycling refund producer responsibility organization that arranges redemption, recycling, waste reduction, or reuse services under this act may engage in anticompetitive conduct to the extent necessary to plan and implement redemption, recycling, waste reduction, or reuse systems to meet the obligations under this act, and is immune from liability under state laws relating to antitrust, restraint of trade, and unfair trade practices.

NEW SECTION. **Sec.**  ENFORCEMENT. (1) The following penalties apply to producers:

(a) The department may administratively impose a civil penalty of up to $1,000 per violation per day on any producer who violates this chapter and up to $10,000 per violation per day for the second and each subsequent violation.

(b) For a producer out of compliance with the requirements of this chapter, the department shall provide written notification and offer information. For the purposes of this section, written notification serves as notice of the violation. The department must issue at least one notice of violation by certified mail prior to assessing a penalty and the department may only impose a penalty on a producer that has not met the requirements of this chapter 60 days following the date the written notification of the violation was sent.

(2) The following penalties apply to any recycling refund producer responsibility organization:

(a) The department may administratively impose a civil penalty of up to $1,000 per violation per day on any recycling refund producer responsibility organization that violates this chapter and up to $10,000 per violation per day for the second and each subsequent violation in any calendar year.

(b) The department may, in addition to assessing the penalties provided in (a) of this subsection, take any combination of the following actions:

(i) Issue a corrective action order to a producer or a recycling refund producer responsibility organization;

(ii) Issue an order to a recycling refund producer responsibility organization to provide for the continued implementation of the program in the absence of an approved plan;

(iii) Revoke the recycling refund producer responsibility organization's plan approval and require implementation of the contingency plan;

(iv) Require a recycling refund producer responsibility organization to revise or resubmit a plan within a specified time frame; or

(v) Require additional reporting related to the area of noncompliance.

(3) A person may not sell or distribute in or into the state a covered beverage container of a producer that is not participating in a recycling refund producer responsibility organization. It is not a violation to distribute a covered beverage container of a producer exempt from this chapter.

(a) The department shall serve, or send with delivery confirmation, a written warning explaining the violation to a person distributing or selling covered products of a producer that is not in compliance with this chapter.

(b) The department may assess a penalty on a person that continues to sell or distribute covered beverage containers of a producer that is in violation of this chapter 60 days after receipt of the written warning under this subsection. The amount of the penalty that the department may assess under this subsection is twice the value of the covered beverage containers sold in violation of this chapter or $500, whichever is greater. The department must waive the penalty upon verification that the person has discontinued distribution or sales of the covered beverage containers within 30 days of the date the penalty is assessed.

(4) Any person who incurs a penalty or receives an order may appeal the penalty or order to the pollution control hearings board.

(5) Penalties levied under this section must be deposited in the recycling refund program account created in section 26 of this act.

(6) Upon receipt of a request from the recycling refund advisory council, the department must consider the appropriateness of the use of enforcement authority authorized in this section.

NEW SECTION. **Sec.**  RECYCLINGREFUND PROGRAM ACCOUNT. The recycling refund program account is created in the custody of the state treasurer. All receipts received by the department under this chapter must be deposited in the account. Expenditures from the account may be used by the department only for implementing, administering, and enforcing the requirements of this chapter. Only the director of the department may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

NEW SECTION. **Sec.**  A new section is added to chapter 82.04 RCW to read as follows:

In computing tax due under this chapter, a taxpayer may deduct from the measure of tax amounts derived from charges for the refund value of qualifying beverage containers as required under chapter 70A.--- RCW (the new chapter created in section 30 of this act). To qualify for this deduction, the taxpayer must separately itemize the charges for the refund value on a receipt, invoice, or similar billing document given to the purchaser. The amount of the deduction claimed under this section for a reporting period may not exceed the aggregate charges for the refund value of qualifying beverage containers for beverages sold by the taxpayer during such a reporting period.

**Sec.**  RCW 82.19.050 and 2005 c 289 s 1 are each amended to read as follows:

The litter tax imposed in this chapter does not apply to:

(1) The manufacture or sale of products for use and consumption outside the state;

(2) The value of products or gross proceeds of the sales exempt from tax under RCW 82.04.330;

(3) The sale of products for resale by a qualified grocery distribution cooperative to customer-owners of the grocery distribution cooperative. For the purposes of this section, "qualified grocery distribution cooperative" and "customer-owner" have the meanings given in RCW 82.04.298;

(4) The sale of food or beverages by retailers that are sold solely for immediate consumption indoors at the seller's place of business or at a deck or patio at the seller's place of business, or indoors at an eating area that is contiguous to the seller's place of business; or

(5)(a) The sale of prepared food or beverages by caterers where the food or beverages are to be served for immediate consumption in or on individual nonsingle use containers at premises occupied or controlled by the customer.

(b) For the purposes of this subsection, the following definitions apply:

(i) "Prepared food" has the same meaning as provided in RCW 82.08.0293.

(ii) "Nonsingle use container" means a receptacle for holding a single individual's food or beverage that is designed to be used more than once. Nonsingle use containers do not include pizza delivery bags and similar insulated containers that do not directly contact the food. Nonsingle use containers do not include plastic or paper plates or other containers that are disposable.

(iii) "Caterer" means a person contracted to prepare food where the final cooking or serving occurs at a location selected by the customer.

(6) The charge for the refund value of qualifying beverage containers as required under chapter 70A.--- RCW (the new chapter created in section 30 of this act), if the charge is separately stated on a receipt, invoice, or similar billing document given to the purchaser.

NEW SECTION. **Sec.**  The provisions of RCW 82.32.805 and 82.32.808 do not apply to sections 27 and 28 of this act.

NEW SECTION. **Sec.**  Sections 1 through 26 of this act constitute a new chapter in Title 70A RCW.

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