

SENATE BILL REPORT

SB 5284

As of January 27, 2025

Title: An act relating to improving Washington's solid waste management outcomes.

Brief Description: Improving Washington's solid waste management outcomes.

Sponsors: Senators Lovelett, Shewmake, Nobles, Bateman, Salomon, Saldaña, Stanford, Wilson, C., Frame, Pedersen, Hasegawa, Liias, Orwall, Slatter and Valdez.

Brief History:

Committee Activity: Environment, Energy & Technology: 1/28/25.

Brief Summary of Bill

- Establishes an extended producer responsibility program for covered packaging and paper products.
- Requires producers of covered packaging and paper products to join a producer responsibility organization.
- Specifies requirements related to planning, funding, enforcement, and outcomes for the program.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

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Background: Solid Waste Management in Washington. Under the state's solid waste management laws, local governments are the primary government entity responsible for implementing state solid waste management requirements. The Department of Ecology (Ecology) also has certain roles in overseeing the administration of solid waste management laws. Ecology is responsible for working cooperatively with local governments as they develop their local solid waste management plans. County and city solid waste management plans are required to contain certain elements, including a waste reduction and recycling

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element, and a recycling contamination reduction and outreach plan. Under state laws addressing the local planning and management of solid waste, a waste management hierarchy is established for the collection, handling, and management of solid waste. This hierarchy prioritizes in descending order: (1) waste reduction, (2) recycling, with source separation of recyclable materials as the preferred method, (3) energy recovery, incineration, or landfill of separated waste, and (4) energy recovery, incineration, or landfill of mixed municipal solid wastes.

The Utilities and Transportation Commission (UTC) regulates private service providers that transport solid waste, garbage, and recyclables from residential sites. The certificate to transport garbage and recyclables sets the geographic areas in which the service provider is authorized to collect waste. Cities and towns have the authority to provide their own solid waste collection services or to contract for solid waste collection services, including collection of source separated recyclable materials. Counties may contract for the collection of source-separated recyclable materials in unincorporated areas of the county. Solid waste collection services provided or contracted by cities and towns or contracted by counties are not subject to UTC regulation. Materials collected for recycling are transported to material recovery facilities which receive, compact, repackage, or sort materials for the purposes of recycling.

Extended Producer Responsibility and Product Stewardship Programs. The Legislature has enacted laws that require the establishment of extended producer responsibility or product stewardship programs for the management of six types of products: (1) electronic products, (2) light bulbs that contain mercury, (3) photovoltaic solar panels, (4) pharmaceuticals, (5) paint, and (6) batteries.

The state's extended producer responsibility and product stewardship programs require producers to participate in a stewardship organization or program responsible for the collection, transport, and end-of-life management of products covered by each program. Ecology is responsible for the oversight of the state's extended producer responsibility and product stewardship programs, with the exception of the Pharmaceutical Stewardship Program, which is overseen by the Department of Health.

Postconsumer Recycled Content Requirements. In 2021, the Legislature established minimum recycled content requirements applicable to three categories of plastic products or products in plastic containers: trash bags, household and personal care product containers, and plastic beverage containers. Producers subject to minimum postconsumer recycling content (PCRC) requirements were required to register with Ecology and pay fees to cover Ecology's administrative costs related to minimum recycled content standards beginning in 2022.

Summary of Bill: Producers and Producer Responsibility Organizations. By January 1, 2026, each producer of packaging and paper products (PPP) must appoint a producer responsibility organization. By March 1, 2026 the Producers and Producer Responsibility

Organizations (PRO) must register with Ecology. During the first plan period, Ecology may not allow registration of more than one PRO, other than individual producers registering as PROs.

By July 1, 2026 producers must be a member of a PRO or register as a PRO that will implement an individual plan. Beginning March 1, 2029 a producer not registered with a PRO or acting as an independent PRO may not introduce covered PPP into this state.

For each covered material, a single specified person—either the material's manufacturer, brand licensee, brand owner, importer of record, distributor of the material in Washington, or another person assigned contractual responsibility as a producer—is defined as the producer responsible for participation in a PRO. Producers do not include government entities, nonprofit organizations, or entities that introduce de minimis volumes of covered PPP.

Packaging is defined to include various materials, including single-use items that facilitate food or beverage consumption. Fourteen categories of materials are exempted from qualifying as covered PPP, including packaging for products like medical devices, drugs, hazardous materials, products that are distributed only to commercial or business entities, or packaging that meet specified recycling rates and other criteria. Producers and PROs may also petition Ecology to temporarily exclude certain categories of packaging from being covered PPP.

A PRO is responsible for:

- payment of fees to Ecology;
- establishing the producer fee schedule;
- submitting the program plan to Ecology;
- implementation of the program; and
- reporting, compliance, accounting, and other functions associated with administration of the program.

Advisory Council. An advisory council is established to review all activities conducted by the PROs and to advise Ecology and PROs on implementation of the program. Membership on the advisory council is appointed by Ecology and includes 17 voting members. Ecology is responsible for providing administrative and operating support to the council to meet their obligations provided for in this chapter.

Ecology responsibilities under this chapter include but are not limited to:

- appointing membership to the advisory council, providing written responses to comments received from the advisory council, and providing administrative and operating support to the advisory council;
- accepting the registration of, and where necessary, selecting the PRO;
- developing the statewide collection list;
- determining the annual registration fee;

- completing the statewide needs assessment;
- reviewing and approving PRO plans;
- reviewing material exemption requests and review and make determinations on alternative recycling proposals;
- establishing a public website;
- creating model comprehensive solid waste plan amendments for cities and counties; and
- enforcement of the program.

Fees. By September 1, 2026, a PRO must make a one-time payment to Ecology, in an amount determined by Ecology, to cover program costs through June 30, 2027. By March 31, 2027 annually thereafter, Ecology must determine the total annual registration fee paid by each PRO that is adequate to cover the costs to implement, administer, and enforce the program.

A PRO may charge member producers a fee using a method it determines to be equitable, so that the aggregate fees charged to member producers are sufficient to pay the PROs costs in full until the PRO has a plan approved by Ecology.

A PRO with an approved plan must annually collect a fee from each member producer that must:

- vary based on the total amount of covered materials introduced by the producer into the state in the prior year;
- reflect program costs for the material type, net the commodity value;
- incentivize materials and designs that reduce environmental and human health impacts;
- prioritize reuse; and
- generate revenue sufficient to cover program operations.

Service Providers. Service providers are entities that provide covered services for covered PPP. Covered services include collecting, transferring, transporting, sorting, processing, recovering, preparing, or otherwise managing refill, reuse, recycling, composting, or disposal of materials. Service providers may receive reimbursement for funding under the program if they meet certain conditions and provide covered services.

Reimbursements for covered services may only be provided to service providers that meet performance standards established in a PRO plan. PRO plans must provide a methodology for reimbursement rates that consider estimated revenue by service providers from the sale of covered PPP. Reimbursement rates must be annually updated, and must be set based on specified collection, transfer, sorting, and processing costs. Service providers retain all revenue from the sale of covered PPP unless otherwise agreed to by the service provider. Service providers may charge a fee for covered services of covered PPP to the extent that PRO reimbursement does not cover all costs of services. A PRO must establish a reimbursement dispute resolution process using third-party mediators.

Statewide Collection Lists and Collection Requirements. By October 1, 2026 Ecology must develop a list of covered materials determined to be recyclable or compostable statewide. In developing the lists, Ecology must distinguish between:

- materials for residential recycling collection;
- materials for residential composting collection;
- materials for public place collection; and
- materials for alternative collection at locations other than residential.

In determining materials suitable for statewide collections lists, Ecology must use specified criteria including but not limited to the viability of responsible markets, environmental health and safety considerations, and the material's compatibility with existing recycling infrastructure. Materials that are not included on the statewide lists may not be collected as part of the residential recycling program.

Collection services for covered PPP determined to be suitable for residential recycling collection must be available wherever residential garbage collection services are available, except where a county adopts an ordinance specifying that covered PPP on the residential recycling collection list must instead be collected through drop-off collection in areas of the county in which solid waste collection is regulated by UTC.

The PRO is responsible for developing an alternative collection program for materials identified on the alternative collection methods list. The alternative collection program must meet specified criteria including providing year-round, convenient drop-off services with at least one location in each county.

Statewide Needs Assessment. By December 31, 2026 Ecology must complete a preliminary needs assessment. The preliminary needs assessment must include identification of covered materials and material types, tons of collected covered materials, characteristics of current recycling and composting services, processing capacity at material recovery facilities, and other collection, processing, servicing, and commodity market information.

By December 21, 2027 and every five years thereafter, Ecology must complete a needs assessment that evaluates specified outcomes from the existing waste reduction, refill, reuse, recycling, and composting program.

Ecology may adjust the content of specific needs assessments to inform upcoming PRO plans. Ecology must initiate a consultation process in carrying out needs assessments and must contract with a third party to conduct needs assessments.

Performance Targets. The PRO must propose performance targets based on the statewide needs assessment. Performance targets must include reuse rates, return rates, recycling rates for materials delivered to responsible markets, composting rates, and targets for plastic source reduction and postconsumer recycled content by covered material type.

Ecology may require that a PRO obtain third-party certification of activity related to a performance target.

Ecology must establish a process for a PRO to propose to count materials sent to facilities that use alternative recycling processes toward recycling rates, and may approve a PRO's proposal based on the evaluation of specified criteria.

Ecology must establish statewide rate requirements and dates by which those requirements must be met for recycling, composting, reuse, return, plastic source reduction, and PCRC in covered PPP. Statewide rate requirements must be reviewed by Ecology every five years, and be updated if warranted. PROs must ensure the statewide rate requirements are met.

Producer Responsibility Organization Plan. By October 1, 2028, and every five years thereafter, a PRO must submit a draft plan to Ecology that describes the proposed operation of the program. At a minimum, the draft plan must include but is not limited to:

- performance targets;
- proposed changes to covered materials;
- a description of collection methods and infrastructure investments and how they will meet performance targets;
- how performance outcomes will be measured for each material types;
- the program budget and how the plan will be paid for by the PRO through producer fees;
- service provider requirements, reimbursement schedules and processes, and other requirements related to service providers;
- a description of how the PRO will assist service providers in delivering covered materials to responsible markets; and
- other requirements related to implementation of the program.

Infrastructure Investments. For infrastructure investments, a PRO must use a competitive bidding process and publicly post bid opportunities. Preference must be given to existing facilities and providers of services in the state. Producers and PROs may not own any portion of infrastructure used to fulfill covered PPP obligations, other than ownership stakes that pre-date 2025, or if a bidding process does not result in any service provider bidding on a contract.

Reporting Requirements and Department of Ecology Enforcement. By July 1, 2031, a PRO must submit an annual report to Ecology that contains criteria specified in the bill including the programs' operational activities and performance outcomes. Ecology must review annual reports submitted by a PRO and make them available for public comment. If an annual report does not meet requirements, Ecology must notify the PRO of the reasons for denial and the PRO must then submit a revised annual report.

A PRO that fails to meet a performance target in an approved plan must, within 90 days of

filing an annual report, file with Ecology an explanation of factors contributing to the failure and propose a plan amendment specifying changes designed to achieve the performance target.

Ecology may administratively impose a penalty of up to \$1,000 per violation per day on any producer or PRO who violates this chapter and up to \$10,000 per violation per day for the second and each subsequent violation. In addition to assessing penalties for violations by the PRO, Ecology may issue corrective action orders, revoke a PRO's plan approval and require implementation of the contingency plan, and take other specified enforcement actions related to a PRO. Penalties and orders are appealable to the Pollution Control Hearings Board.

Local Solid Waste Planning and Solid Waste Collection Company Oversight. Beginning January 1, 2030, the programs for the collection of source-separated residential materials under local comprehensive solid waste management plans must:

- provide for curbside collection of source-separated recyclable materials from single-family and multi-family residences wherever curbside garbage collection services are provided;
- include covered PPP on the statewide residential recycling collection list adopted by Ecology; and
- must include service standards established under PRO plans for curbside collection frequency, container size, and method of collection.

Local comprehensive solid waste management plans may incorporate PRO programs by reference to fulfill source-separated recyclable material collection requirements. Local solid waste comprehensive plans must be amended by January 1, 2030 to align with PRO-related provisions, or else a model comprehensive solid waste plan amendment developed by Ecology will apply in the jurisdiction.

PROs may periodically provide educational materials promoting household waste reduction and recycling to public and private waste haulers.

The UTC must review PRO reimbursement of service providers and require solid waste collection companies regulated by the UTC to deliver covered PPP only to responsible markets that meet specified environmental, health, and other criteria. The UTC, in its duties providing oversight of solid waste collection company rates, must include costs related to curbside recycling collection performed under a PRO plan in the solid waste collection company's rate base.

Reuse Financial Assistance Program. The PRO must annually fund and implement a reuse financial assistance program in the amount of \$5 million adjusted annually for inflation. Eligible entities include government, tribal governments, nonprofit organizations, and private organizations. The program must be designed to reduce the negative environmental impacts of covered materials through reuse.

Studies. *Litter Tax Review.* In consultation with any PROs, Ecology and the Department of Revenue (DOR) must study the impacts of producer requirements on the litter rates of covered PPP, and possible improvements to the structure of the litter tax that do not include increasing the tax rate or expanding the types of covered PPP under the PRO that are subject to the tax. Ecology, in consultation with DOR, must provide recommendations to the Legislature on the applicability of the litter tax to covered PPP and improvements to the litter tax structure by January 1, 2030.

Equity Study. By January 31, 2032, Ecology must complete a third-party contracted study that evaluates facilities managing covered PPP, including the facilities' working conditions, barriers to solid waste operations ownership by women and minorities, and access by multi-family building residents to solid waste collection infrastructure. Recommended actions from the study must be considered for inclusion as part of future PRO plans.

Independent Review. By September 1, 2038, Ecology must contract with an independent consultant to analyze the first seven years of program implementation and submit a report to the Legislature.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains several effective dates. Please refer to the bill.