

SENATE BILL REPORT

SB 5284

As of January 28, 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.

Staff Summary of Public Testimony: PRO: We worked hard to streamline this bill and tailor it to Washington's specific needs to make sure that we are getting curbside recycling everywhere that they are currently offering garbage service. There are many places across the state where you can't recycle a cardboard box or an aluminum can. These are valuable materials that we want to make sure are finding an end market. We are asking the producers of these products to have accountability and some agency making sure that they are modifying their products to fit in a system. We are also trying to make sure that our waste haulers are kept whole and that they are able to continue to provide those services across the state. We are going to have some transparency and accountability to make sure that we are ensuring that from the time of manufacture to the time that product hits its final resting place that we know where it ends up.

Every year volunteers with the Surfrider Foundation clean up thousands of pounds of plastic debris out of our waters and beaches. Most of this is single use plastics that should have been recycled. We need to cut plastic packaging at its source. This bill requires the recycling industry to only sell materials to responsible markets. Washingtonians will easily

know what can go into their bins and how it will be recycled. Microplastics that result from the breakdown of plastic end up in our food, water supply, and concentrating in animals and fish. They result in increased disease in humans. The Washington State Medical Association adopted a resolution recognizing the health risks of plastic waste and called for policies to reduce human exposure. The Recycling Reform Act is one tool to do this.

This bill will create a statewide list of recyclable materials so that people know what can be recycled. It will also provide education. In the past five years we've seen significant increases in the costs to provide recycling services. Our residents are seeing this in conjunction with other increases in utility costs. This bill would offer an opportunity to reduce utility bills by shifting the costs from the consumer to the people producing the packaging. We are also incentivizing more recyclable products. The system needs comprehensive reforms and this bill provides that opportunity. It will reduce confusion about what is recyclable. This will create a smarter, more cost effective approach. The city committed to zero waste, but government can't achieve this goal without upstream changes. A system with high processing costs and negative returns on commodities is not sustainable. Residents should not be expected to bear these costs alone.

We are hoping the reusable section will be tweaked so that it is more robust. Reusables are the future of packaging but need some help to scale. Incentives will ensure producers contribute to building a reuse economy. As an industry, we want to recover as much glass as possible. This bill has enough tools to improve the recycling system. The bill allows for a future deposit return system which we support. We suggest removing the restriction on the use of recycled content as one path to achieving source reduction targets. We believe the Minnesota approach is the right approach including use of a fair funding formula to support all stakeholders and calculating a workable fee structure. EPR are proven and effective solutions for improving recycling and reducing waste. This will strengthen local recycling programs. We have the capacity to increase recycling operations but not enough materials. This program would generate critical investment in state recycling systems and incentivize the use of sustainable packaging materials. The bill includes a robust needs assessment process which will be informed by Washington's existing systems. This bill will create green local jobs. The bill includes labor standards that ensure workers at sorting facilities have adequate protections. There is no credible evidence that EPR increases costs to consumers. We know Washington households are already paying \$8 to \$10 per month or more for recycling. This is a real and growing cost burden.

CON: There are no specific post-consumer recycled content provisions laid out in language. These are left to the discretion of the PRO to set those targets. PCRC changes the plastic manufacturers behavior much more quickly than other systems. The bill as structured will not lead to more environmentally friendly packaging. The bill jumps to a prescription before conducting a comprehensive needs assessment. There is a lack of transparency with the PRO and the exemption from anti-trust regulations.

This is a program that has never been implemented in any state. Those states that have

passed it are going through very difficult implementation journeys and finding it expensive and cumbersome. Those are costs that the producer will pass on to the consumer. In Europe and Canada the EPR programs do not bear out the claims. Food packaging is regulated by the FDA and there are limited options available for use. No post consumer type blend has been approved by the FDA for agriculture. Both California and Maine have provided exemptions for perishable products. Any cost that impacts farms is very difficult. The needs assessment is critical and we think that needs to be completed first. The definition of producer in the bill allows producers to shirk their responsibility and impose those obligations on distributors or retailers who aren't in a position to oppose it. We are concerned about the timeline, increased cost to consumers, and availability of molecular recycling technologies in implementing this bill. We are concerned about this institution a patchwork of state laws that all differ.

The costs from this program will be passed on to consumers. This bill takes decisions out of the hands of the current regulatory structure and gives that control to producers. We need to focus on more upstream and truth in labeling requirements. There's a lot of concerns about the cost implications with independent grocers. Prices continue to rise. We believe this is a program that is going to drive costs even higher. We appreciate the inclusion of the litter tax study. It's important to evaluate the tax structure. We should focus on strengthening existing markets for recycled products. This will be a 5 to 7 percent increase in grocery costs without any known benefit to recycling rates.

OTHER: The combined impacts of this bill and other waste reduction goals undermines the county's ability to implement the comprehensive solid waste system that state law requires. Washington's current model relies heavily on materials going to the landfill. These programs have fixed costs regardless of the amount of waste that goes there. We are concerned that there is a lack of a durable manufacturer on the advisory board.

Persons Testifying: PRO: Senator Liz Lovelett, Prime Sponsor; Melissa Stuart, City of Redmond; Brooke Davies, Washington Beverage Association; Lynne Robinson, Mayor, City of Bellevue; Edwin Borbon, AMERIPEN; Sydney Harris, Upstream; Marlene Feist, City of Spokane; Allison Kustic, Association of Plastic Recyclers (APR); Ann Murphy, League of Women Voters of Washington; Kelsey Hulse, EPR Leadership Forum; Dylan de Thomas, The Recycling Partnership; Megan Lane, Coalition of High Performance Recycling; McKenna Morrigan, Seattle Public Utilities; Christoph Mair, Washington State Labor Council, AFL-CIO; Rebecca Thomas, Glass Packaging Institute; Ezra Eickmeyer, EDHC; Peter Steelquist, Surfrider Foundation Washington; Dr. Mark Vossler, Washington Physicians for Social Responsibility; Brenda Fincher, Councilmember, City of Kent.

CON: Jay Balasbas, Basin Disposal and Consolidated Disposal Services Inc.; Vicki Christophersen, Washington Refuse and Recycling Association; Brian Coddington, Sunshine Disposal & Recycling; Lyset Cadena, WM (Waste Management); Ted Carlson, Sanitary Service Company; Wendy Weiker, Republic Services; Peter Godlewski, Association of Washington Business; Erin Raden, Consumer Brands Assn; Diana Carlen,

Washington Potato & Onion Association; Rick Vahl, Waste Connections.

OTHER: Mark Johnson, Washington Retail Association; Katie Beeson, Washington Food Industry Association (WFIA); Peter Lyon, Washington Department of Ecology, Solid Waste Management Program; Brandon Houskeeper, NW Grocery Retail Assoc.; Scott Hazlegrove, WA Beer & Wine Distributors Association; Travis Dutton, Washington State Association of Counties; Jacob Cassady, Association of Home Appliance Manufacturers (AHAM).

Persons Signed In To Testify But Not Testifying: No one.