

SENATE BILL REPORT

SB 5502

As Reported by Senate Committee On:
Environment, Energy & Technology, February 14, 2025
Ways & Means, February 27, 2025

Title: An act relating to recycling and waste reduction.

Brief Description: Concerning recycling and waste reduction.

Sponsors: Senators Robinson, Shewmake, Hasegawa and Saldaña.

Brief History:

Committee Activity: Environment, Energy & Technology: 1/29/25, 2/14/25 [DPS-WM, DNP, w/oRec].

Ways & Means: 2/24/25, 2/27/25 [DP2S, DNP, w/oRec].

Brief Summary of Second Substitute Bill

- Assesses a \$0.10 refundable fee on all covered beverage containers and establishes a redemption program administered by a producer responsibility organization.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

Majority Report: That Substitute Senate Bill No. 5502 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Shewmake, Chair; Slatter, Vice Chair; Dhingra, Liias, Lovelett, Ramos and Wellman.

Minority Report: Do not pass.

Signed by Senators MacEwen and Short.

Minority Report: That it be referred without recommendation.

Signed by Senators Boehnke, Ranking Member; Harris.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Staff: Alicia Kinne-Clawson (786-7407)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5502 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Robinson, Chair; Stanford, Vice Chair, Operating; Trudeau, Vice Chair, Capital; Frame, Vice Chair, Finance; Cleveland, Conway, Dhingra, Hansen, Hasegawa, Kauffman, Pedersen, Riccelli, Saldaña and Wilson, C..

Minority Report: Do not pass.

Signed by Senators Gildon, Ranking Member, Operating; Torres, Assistant Ranking Member, Operating; Schoesler, Ranking Member, Capital; Dozier, Assistant Ranking Member, Capital; Boehnke, Muzzall, Wagoner and Warnick.

Minority Report: That it be referred without recommendation.

Signed by Senators Braun and Wellman.

Staff: Alicia Kinne-Clawson (786-7407)

Background: Solid Waste Management in Washington. Under the state's solid waste management laws, local governments are the primary entities 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 must work cooperatively with local governments as they develop their local solid waste management plans. County and city solid waste management plans must contain certain elements, including a waste reduction and recycling element, and a recycling contamination reduction and outreach plan.

The Utilities and Transportation Commission (UTC) regulates haulers transporting solid waste, garbage, and recyclables from residential sites. The certificate to transport garbage and recyclables sets the geographic areas in which the company is authorized to collect waste. Cities and towns have the authority to provide their own solid waste services or to contract for those services. Solid waste services provided or contracted by cities and towns are not subject to UTC regulation. Materials collected for recycling are transported to material recovery facilities (MRFs), which receive, compact, repackage, or sort materials for the purposes of recycling.

Recent Plastics and Packaging Study. In December 2023, Ecology submitted a report, mandated by a 2023 operating budget proviso, related to consumer packaging and paper materials to the Legislature from a contracted consultant. The report recommends the highest achievable recycling, reuse, and source reduction performance rates for Washington under four policy scenarios involving a combination of policies, including:

- scenarios that include an extended producer responsibility or product stewardship

- program for packaging and paper products;
- a deposit return system for beverage containers;
- the establishment of new postconsumer recycling rate targets for plastic products; and
- prohibitions on the use of false recyclability claims on product labels.

The December 2023 report also reported the surveyed input of Washington residents on the state's recycling system.

Litter Tax. The Waste Reduction, Recycling, and Litter Control Act (Act), dating to 1971, prohibits littering and establishes statewide programs to prevent and clean up litter, reduce waste, and increase recycling. These programs are funded by the 0.015 percent litter tax on manufacturers', wholesalers', and retailers' gross proceeds on 13 categories of consumer products, including:

- food and groceries;
- beverages;
- cigarettes and tobacco products;
- newspapers and magazines;
- household paper and paper products;
- glass, metal, and plastic containers;
- cleaning agents; and
- nondrug drugstore sundry products.

Programs funded by the litter tax under the Act include: litter collection efforts by state agencies including Ecology; and state assistance of local government waste reduction, composting, and recycling programs.

Summary of Bill (Second Substitute): Covered Beverage Container Producers. By March 1, 2026, each producer of covered beverage products must appoint a recycling refund producer responsibility organization (PRO). By April 1, 2026 a recycling refund PRO must register with Ecology on behalf of its producers.

By April 15, 2026 producers must be a member of a PRO. In registering with a PRO, producers must provide the following information to the PRO before the beverage brand is offered for sale, excluding any beverages sold to on-site consumption establishments:

- the adequate refund value to the PRO to cover existing or projected refund liabilities associated with the brand;
- detailed information about the brand including branding identification, type of container;
- the material, number and volume of beverage containers; and
- the universal product code.

The PRO must annually submit a payment to Ecology to cover all costs to implement, administer, and enforce the act. By January 1, 2028 the PRO must submit an amount to Ecology that is equal to the amount withdrawn from the Waste Reduction, Recycling, and

Litter Control Account from the effective date of the act through June 30, 2027.

Beginning October 1, 2026, a producer not in compliance with all requirements of this act is prohibited from selling or supplying covered beverage containers into the state.

Covered beverage containers are defined as any beverage container subject to a recycling refund. This includes glass, plastic, and metal cans or bottles with a capacity between 50 milliliters and one gallon. A PRO is not required to pay refunds on covered beverage containers that are contaminated, reasonably believed to have been purchased in another state, and any container other than metal and plastic containers that are crushed, broken, or damaged.

Producer means the brand owner responsible for the brand visible on a covered beverage container and excludes government entities, 501(c)(3) charitable organizations, and 501(c)(4) social welfare organizations.

Recycling Refund Producer Responsibility Organization. A recycling refund producer responsibility organization must:

- register with Ecology;
- submit a one-time payment to Ecology to cover implementation costs;
- establish an initial producer fee structure to fund implementation of the Recycling Refund Redemption Program;
- submit to Ecology a list of registered producers, their brands, and their total gross unit sales volume;
- develop and submit to Ecology a proposed list of covered beverage containers and material exemptions;
- ensure compliance with the requirements of the Recycling Refund Redemption Program and consumer education plan; and
- ensure timely, negotiated, and fair compensation, maintenance, and operational costs to entities leasing space for redemption sites.

A PRO must propose a quantitative convenience standard for the redemption of covered beverage containers that ensures convenient access for consumers to redeem the full refund.

A PRO must achieve the following performance requirements:

- greater than 65 percent redemption rate by the end of year two;
- greater than 80 percent redemption rate by the end of year five;
- develop a reuse and refill performance target that increases annually;
- demonstrate that convenience standards have been achieved or exceeded; and
- provide results of consumer awareness and behavior surveys.

A PRO is responsible for submitting an annual report to Ecology that includes information specified in the bill including information about Recycling Refund Redemption Program operations, evaluation of the convenience of the Recycling Refund Redemption Program,

accounting of Recycling Refund Redemption Program costs and expenditures, and compliance data.

Recycling Refund Redemption Program and Consumer Education Plan. By July 1, 2027, and every five years thereafter, the PRO must submit a plan to Ecology. The plan includes, but is not limited to the following:

- a list of the types of covered beverage containers and materials exemptions;
- description of performance targets and how they will be measured and achieved;
- description of the number and distribution of proposed full-service and express redemption sites as well as an analysis of how that network meets the convenience standards;
- an outreach and consumer education plan;
- a schedule of producer fees; and
- a description of how the PRO will establish partnerships with nonprofit organizations.

Advisory Council. An advisory council is established to review all activities conducted by the PRO. Membership of the council is appointed by Ecology and comprised of 14 members. Responsibilities include review of the Recycling Refund Redemption Program plan, audits, and annual reports, and ensuring that a broad range of perspectives are included in developing and implementing the Recycling Refund Redemption Program.

Applicable Refund Value. Every covered beverage container sold or offered for sale in the state has a refund value of \$0.10. The charge for the refund value of covered beverage containers must be separately stated on a receipt, invoice, or similar billing document. Amounts received or transferred as part of remitting the refund are exempt from the state business and occupation tax.

Redemption Sites. Redemption sites must collect all covered beverage containers subject to the Recycling Refund Redemption Program. Any location serving as a redemption site must be fairly compensated through a mutual agreement with the PRO.

Express Redemption Sites. A PRO must, at its own cost, provide convenient designated return points or avenues that allow consumers to return covered beverage containers. Express redemption sites do not require cash handling on-site.

If a bag-drop program is used, the PRO must credit the cost of any required bag purchase back to the consumer. If the standard bags for the bag drop program are made of plastic film, the PRO must ensure the bags have a minimum of 50 percent post-consumer recycled content and the waste film from the bag production or retired bags is being recycled at responsible end markets.

Nonprofit Recycling Refund Redemption Program. A PRO may administer a program for nonprofit organizations to participate in the Recycling Refund Redemption Program. Through this program, a PRO may choose to accept covered beverage containers in large

volume quantities for an additional refund value premium if they are returned by a registered 501(c)(3) nonprofit organization.

Retail Establishments. Retail establishments must charge for the refund value of covered beverage containers and remit the refund value to the PRO. Retail establishments larger than 20,000 square feet must sell the standard bags for the Recycling Refund Redemption Program.

Retail establishments may choose to host an express redemption site or collection event in their parking lot through mutual agreement with the PRO. Retail establishments that choose to host redemption sites are eligible to have a self-service kiosk located at the retailer at no cost. Retailers may offer a voucher redemption option where refunds may be used as store credit.

On-Site Consumption Establishments. The PRO must provide additional assistance in the collection of covered beverage containers for on-site consumption establishments under 5000 square feet. The PRO may contract with a third-party to facilitate the collection of covered beverage containers from on-site consumption facilities.

Refund Value to Material Recovery Facilities. After the first full month that covered beverage containers are sold with the applicable refund value, a PRO must make a monthly payment to each MRF who submits the following information to the PRO:

- tons of covered beverage containers the MRF received, by material type; and
- tons of covered beverage containers the facility transferred to additional materials processing or end market.

The monthly payment required to a MRF is at least 50 percent of the refund value for covered beverage containers that a MRF transferred to additional materials processing or end markets. MRFs must share the payments for covered beverage containers with service providers consistent with contracts or other agreements. Service providers that receive payments from the PRO for the collection of covered materials must display that information on customer bills and pass on rate reductions or credits as applicable. Monthly payments are no longer required to MRFs after the first plan period concludes.

Enforcement. Ecology has responsibility for implementation, administration, and enforcement of the Recycling Refund Redemption Program. In addition to other responsibilities, Ecology must review and approve, deny, or request additional information regarding the draft Recycling Refund Redemption Program and consumer education plan submitted by the PRO. In reviewing the draft plan, Ecology must review the convenience standards and ensure that the plan meets the minimum standards provided under the bill.

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. Funds collected from penalties shall be deposited in the recycling enhancement account. Penalties and orders are appealable to the Pollution Control Hearings Board.

Litter Tax. The charge for the refund value of covered beverage containers is exempt from the litter tax if the charge is separately stated on a receipt, invoice, or similar billing document given to the purchaser.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Second Substitute):

- Modifies multiple dates related to the operation of the PRO and implementation of the program.
- Allows express redemption sites to be located on the property of retail establishments.
- Adds requirements that retail establishments remit the refund value of covered beverage containers to the PRO.
- Adds a requirement that service providers that receive payments from the PRO for the collection of covered materials display that information on customer bills and pass on rate reductions or credits as applicable.
- Modifies the evaluation of the convenience standard to include the number of redemption sites compared to the volume of covered beverage containers.
- Requires that enforcement penalties be deposited in the recycling enhancement account for use by local governments.
- Strikes language specifying that it is not a violation to distribute a covered beverage container of a producer exempt from the chapter.
- Adds a requirement that PRO fees refund the Waste Reduction, Recycling, and Litter Control Account for initial implementation costs.
- Adds conforming language related to the pollution control hearings board.

EFFECT OF CHANGES MADE BY ENVIRONMENT, ENERGY & TECHNOLOGY COMMITTEE (First Substitute):

- Specifies that one PRO may operate under the plan.
- Adds alternative access redemption options as allowable under the PRO plan.
- Specifies that covered beverage containers have capacities between 50 milliliters and one gallon.
- Adds more specificity around reuse and adds a definition for reuse rate.
- Adds requirements related to responsible end markets.
- Eliminates some requirements related to PRO registration with Ecology including the submission of a plan to recruit producers and documentation demonstrating financial information for the PRO.
- Adds additional reporting requirements for producers when registering with the PRO.

- Clarifies fee setting by the PRO to specify that the producers pay a one-time fee, which is different from the ongoing fee once the program is established.
- Adds to the convenience standard the requirements that:
 1. the proposed network of redemption sites provide access in urban areas that is accessible and convenient by way of public transit; and
 2. there are reasonable opportunities for individuals to receive immediate refunds of covered beverage containers.
- Requires the program plan to include a description of the number and distribution of proposed full-service and express redemption sites as well as an analysis of how that network meets the convenience standards.
- Adds additional members to the advisory group.
- Adds government entities as eligible to host redemption sites.
- Requires the recycling refund producer responsibility organization to provide additional assistance in the collection of covered beverage containers for on-site consumption establishments under 5000 square feet.
- Removes a provision allowing the PRO to work with and compensate distributors, express redemption site operators, or other entities to help facilitate the covered beverage containers pickup from onsite consumption establishments and instead allows the PRO to facilitate the collection of covered beverage containers from on-site consumption facilities by contracting with a third-party.
- Specifies that material recovery facilities must share the payments for covered beverage containers with service providers consistent with contracts or other agreements.
- Specifies that reporting requirements under the program begin April 30, 2029.

Appropriation: None.

Fiscal Note: Available.

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

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill (Environment, Energy & Technology): *The committee recommended a different version of the bill than what was heard.* PRO: Thirty years ago I lived in Michigan. I was a very busy mom and I took all our bottles and cans to the grocery store every week and it was fun to get a little coupon that I could then use to spend. I know it works. I moved here and wondered why there wasn't a system here. People, for better or worse, are motivated by money. And if it has value you are less likely to litter it. I believe that if implemented, this will improve recycling within our state. It has the capacity to create a more reliable, clean stream of recyclables.

We have an issue with glass recycling in our state and I think this approach can create a supply of glass to bring back the possibility of recycling glass. This collaborative approach

advances a circular economy through a more efficient recycling model. Today nine of the top ten recycling states have implemented recycling refunds. They only account for 27 percent of the U.S. population but 50 percent of all beverage containers are recycled nationwide. Globally, these programs achieve recovery rates of 90 percent or higher. This bill would help WA achieve a 75 percent recycling rate for beverage containers. EPR and recycling refund programs in tandem can bring great environmental and economic benefits. These will create and maintain jobs. We can do more for plastic recycling. We have the capacity, we just need the material. Curbside recycling alone will not meet the manufacturing demands for plastic. A lot of manufacturers have their own sustainability initiatives and need these materials to meet those goals. This system can triple the recycling rate for glass with better quality, clean material. The deposit return states supply 60 percent of the material need to make a new bottle in the U.S.

The containers like the ones in this bill represent some of the biggest sources of ocean pollution. This would have immediate and positive benefits for the environment. Expanding reusable packaging would dramatically boost the return rates of post consumer containers. The beverage sector is ready for reuse with other systems operating at scale globally. We consistently hear from constituents that roadways and parks are full of litter. We believe this bill will reduce the amount of waste going to landfills and address litter cleanup efforts. We support the system in the bill because it is a smart and well designed policy to establish a circular economy. It will increase the amount of materials available to invest in a circular economy.

With our system all you have to do is put your bottles into one of our bags. You get a little sticker that's linked to your personal account. It's an easy, clean, modern system. We are in support of this system when paired with EPR. It's an effective recycling solution. We have the capacity to recycle more material. None of our facilities work at capacity because we can't get enough material. With curbside recycling we probably get back four to six of the ten bottles that are recycled. Through recycling refunds, 100 percent of the bottles returned would be recycled. We support efforts for recycling refunds because it helps us reduce waste and makes meaningful progress on recycled content mandates. In order to reach those goals, we have to get as much material back as possible to use it in new containers. Our industry can not effectively process contaminants like food or plastic mixed in with aluminum. Clean waste streams are critical to ensuring that recovered aluminum actually gets recycled. We appreciate how this sings with the EPR bill we heard. This paired with EPR will result in the highest recycling rates.

CON: No state in the U.S. except for Hawaii has adopted a bottle bill since 1986. Washington voters rejected this policy twice. Instead we made a conscious decision to invest in curbside recycling. But instead of relying on that system we are going to have people do chores to get their money back. This is a regressive tax. Call it a deposit, call it a refund, but at the end of the day its a tax. The structure contemplated in this bill undermines our recycling system. It will also raise consumer recycling bills through reduced bill credits from the valuable commodities that would come out of the system. Our members operate

stores in Washington and Oregon and they can not get on board with the Oregon model. The drop center at a member business in Oregon costs his business each year to run it. Some of those costs may be covered by the producer organization under this bill.

There's the public facing issue that customers are just not a fan of having to go to a small parking lot and see the mess these drop centers create. This bill imposes the most burden on our members and it is repetitive. Businesses are already required to pay for curbside recycling. We would have to hold onto this product or find a way to drive it for processing. As an industry that is working on a 1.5 percent profit margin, this proposal creates a system solely for the beverage industry but the cost is borne by our members. We want to enhance the curbside recycling system and not duplicate it. This is establishing a separate, parallel recycling system for a small part of the waste stream. Consumers want convenient curbside recycling. This will divert efforts from more meaningful investments. We are concerned about the financial and administrative burdens this would place on independent breweries. Small establishments can't absorb the costs associated with this policy. We will have to pass on costs to consumers.

OTHER: This bill would bring a highly effective recovery system for beverage containers to the state of Washington. As written, Ecology would receive reimbursement for agency costs from the PRO one year after incurring agency costs. Ecology requests that the funding be adjusted to pay for the estimated costs for the coming fiscal year. The bill should include a date where the deposits will begin being charged to consumers. We suggest adjusting dates to accommodate a two-year rulemaking process. Some retail establishments want to host a redemption site, but many do not. We appreciate that this bill does not require it. We think this bill could bring about meaningful change. But we also worry about it undermining our primary funding source to continue providing ongoing management of garbage, landfills, organics, hazardous waste, and others. The beverage industry has advocated for EPR and think it holds potential when paired with a DRS system.

Persons Testifying (Environment, Energy & Technology): PRO: Senator June Robinson, Prime Sponsor; Chris Brown, Pierce County; Sam Tracy, CLYNK; Megan Lane, Coalition for High Performance Recycling; Dylan de Thomas, The Recycling Partnership; Allison Kustic, Association for Plastic Recyclers; Scott DeFife, Glass Packaging Institute; Dr. Anja Brandon, Ocean Conservancy; Sydney Harris, Upstream; James Toner, International Bottled Water Association (IBWA); Liz Donohue, Primo Brands; Fiona Bell, Novelis; Liz Donohue, Primo Brands; Francisco Castillo, Diageo; Maggie Yuse, Seattle Public Utilities; Chris Brown, Pierce County Sustainable Resources; John McDonald, Washington Wine Association; Hannah Martinez, Indorama Ventures; Scott Hazlegrove, WA Beer & Wine Distributors Association; Heather Trim, Zero Waste Washington; Peter Steelquist, Surfrider Foundation.

CON: Jay Balasbas, Basin Disposal and Consolidated Disposal Services Inc.; Vicki Christophersen, Washington Refuse and Recycling Association; Katie Beeson, Washington Food Industry Association (WFIA); Samantha Louderback, Washington Hospitality

Association; Lyset Cadena, WM (Waste Management); Daniel Olson, Washington Brewers Guild; Rick Vahl, Waste Connections.

OTHER: Mark Johnson, Washington Retail Association; Travis Dutton, Washington State Association of Counties; Brad Boswell, Washington Beverage Association; Peter Lyon, Washington Department of Ecology, Solid Waste Management Program; Brandon Houskeeper, NW Grocery Retail Association; Patrick Stickney, WA Office of Equity.

Persons Signed In To Testify But Not Testifying (Environment, Energy & Technology): No one.

Staff Summary of Public Testimony on First Substitute (Ways & Means): *The committee recommended a different version of the bill than what was heard.* PRO: Well-crafted recycling programs work to keep litter out of nature and neighborhoods. This bill is budget neutral and is a fiscally responsible policy for Washington. This is the only proven policy to significantly reduce litter beverage containers. The system works very well around the world and in ten other states in the country. Businesses turn waste into valuable feedstock by recycling bottles into other products. But you cannot build a robust circular economy without collecting enough bottles for recycling. Recycling refunds benefit the economy and a high value product can be recovered. Paying market value for the scrap will produce higher job security across the aluminum value chain.

Beverage bottlers employ about 4500 people in Washington and recycling helps make those jobs more secure and helps develop a circular economy. Bottle to bottle recycling allows for the best way to recover high quality food plastic materials. The recycling collection will be paid by the industry and not by consumers. This bill is designed to work carefully with the EPR bill by aligning the systems and making it easier and more efficient to use a series of depots and collection points around the state. More glass goes to landfills than is being recycled. This will create a system that will result in three times as much glass to be recovered.

CON: Consumers will pay for the administration and infrastructure of a labor intensive bottle return system. Restaurants are already struggling with low profit margins and adding \$0.10 on wine bottles, liquor bottles and others adds up. We ask that you consider the budget and administrative challenges of these restaurants, which includes additional sales tax, interchange fees, and B&O taxes. Instead, we should allow the use of the recycling system that is already in place. The costs of this new system will be borne by members and customers. It is another added cost and regressive tax that places a burden on citizens. The bill prohibits the bottles from being crushed.

We need to look at better solutions for improving the recycling system. This bill fails to build on the experiences of Oregon and places the burden squarely on the brands rather than distributors and suppliers. This should be paused to accommodate more discussion on the impacts to the retail community. The fiscal note does not provide a full sense of all the costs

to the consumer such as the cost to set up redemption sites and the transport of materials. Many businesses have no interest in becoming deposit return sites but in order to meet the vague convenience standards in the bill, they will need to participate. Although some costs are mitigated in the bill but not the costs for establishing return sites. The purpose of this is not recycling but to save beverage manufacturers money and those costs will be passed onto consumers.

OTHER: Costs to the Department of Ecology are for program administration and oversight. The language in the bill is problematic for program implementation. The upfront costs would be funded with the WRRLC Account and these would be reimbursed with the initial PRO payment. The current system for funding solid waste is misaligned with the programs proposed in the bill. Although this bill is another example to improve outcomes, it threatens the ability to fund solid waste management in the counties. We need to include strategies that address foundational problems such as this to ensure ongoing success of solid waste management systems in the state.

Persons Testifying (Ways & Means): PRO: Roberta Elias, Niagara Bottling; Dylan de Thomas, Coalition for High Performance Recycling; Allison Kustic, Association for Plastic Recyclers; Fiona Bell, Novelis; Liz Donohue, Primo Brands; Scott DeFife, Glass Packaging Institute.

CON: Lyset Cadena, WM (Waste Management); Samantha Louderback, Washington Hospitality Association; Vicki Christophersen, Washington Refuse and Recycling Assoc.; Brandon Houskeeper, NW Grocery Retail Association; Jennifer Ziegler, Sanitary Service Company; Katie Beeson, Washington Food Industry Association (WFIA).

OTHER: Paul Jewell, Washington State Association of Counties; Peter Lyon, Washington Department of Ecology, Solid Waste Management Program.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.