
SECOND SUBSTITUTE SENATE BILL 5502

State of Washington

69th Legislature

2025 Regular Session

By Senate Ways & Means (originally sponsored by Senators Robinson, Shewmake, Hasegawa, and Saldaña)

READ FIRST TIME 02/28/25.

1 AN ACT Relating to recycling and waste reduction; amending RCW
2 82.19.050 and 70A.245.100; reenacting and amending RCW 43.21B.110 and
3 43.21B.300; adding a new section to chapter 82.04 RCW; adding a new
4 chapter to Title 70A RCW; creating a new section; and prescribing
5 penalties.

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

7 NEW SECTION. **Sec. 1.** FINDINGS—INTENT. The legislature finds
8 that Washington's current recycling system does not collect and
9 recycle the majority of the 3.8 billion glass, plastic, and metal
10 beverage containers put onto the market each year to their highest
11 and best use in order to optimize the economic and environmental
12 benefits of recycling for Washington residents.

13 The legislature recognizes improved recycling for beverage
14 containers will help the state to reduce greenhouse gas emissions,
15 reduce litter and specifically plastic pollution, expand
16 opportunities for reusable containers, and support state and regional
17 businesses to build a circular economy. Higher-quality materials
18 always hold greater economic value and offer more diverse end
19 markets. The recent struggles of regional end markets expose critical
20 weaknesses in Washington's fragmented recycling system and underscore
21 the urgent need for comprehensive reforms to divert recyclable

1 materials, like glass, from landfills and ensure they are transformed
2 into valuable new products. Recycling refund programs provide a
3 proven solution by delivering high quality, source separated glass,
4 plastic, and metal containers that will revitalize end markets and
5 support robust local recycling infrastructure.

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

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

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

30 NEW SECTION. **Sec. 2.** The definitions in this section apply
31 throughout this chapter unless the context clearly requires
32 otherwise.

33 (1) "Alternative access redemption options" means alternative
34 redemption methods approved by the recycling refund producer
35 responsibility organization that are not express redemption sites or
36 full-service redemption sites.

37 (2) "Applicable refund value" means the value established under
38 section 8 of this act.

1 (3) "Beverage" means a drinkable liquid intended for human oral
2 consumption. "Beverage" does not include: (a) A drug regulated under
3 the federal food, drug, and cosmetic act, 21 U.S.C. Sec. 301 et seq.;

4 (b) 100 percent fluid milk infant formula; or (c) a meal replacement
5 liquid.
6 (4) "Beverage container" means any prepackaged container for
7 beverages.

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

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

14 (7) "Canner" means an individual who collects and redeems covered
15 beverage containers for income.

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

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

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

25 (11) "Covered beverage container" means any beverage container
26 subject to a recycling refund. At a minimum, this includes glass,
27 plastic, and metal cans or bottles with capacities ranging from 40
28 milliliters to one gallon. Recycling refund producer responsibility
29 organizations must submit a proposed list of covered beverage
30 containers as part of their program and plan, subject to approval by
31 the department. Beverage containers must have a visible brand to be
32 considered a covered beverage container and to be eligible for a
33 refund value.

34 (12) "Department" means the department of ecology.

35 (13) "Express redemption site" means a designated return point or
36 avenue that allows consumers to return covered beverage containers.
37 These locations will not require cash handling on-site, rather, upon
38 return, if needed, containers will be transported to centralized
39 processing facilities and refunds will be credited to the consumer's
40 virtual account held by the recycling refund producer responsibility

1 organization or their designee. This may include bag-drop systems,
2 reverse vending machines, or other collection modalities to enhance
3 convenience and accessibility for consumers.

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

7 (15) "Government entity" means any:

8 (a) County, city, town, or other local government, including any
9 municipal corporation, quasi-municipal corporation, or special
10 purpose district, or any office, department, division, bureau, board,
11 commission, or agency thereof, or other local public agency;

12 (b) State office, department, division, bureau, board,
13 commission, or other state agency;

14 (c) Federally recognized Indian tribe whose traditional lands and
15 territories include parts of Washington; or

16 (d) Federal office, department, division, bureau, board,
17 commission, or other federal agency.

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

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

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

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

33 (a) Government entities; or

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

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

1 (21) "Recycling refund advisory council" means the council
2 established in section 7 of this act.

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

7 (23) "Recycling refund producer responsibility organization"
8 means a nonprofit corporation that is tax exempt under chapter
9 501(c)(3) of the federal internal revenue code created by a group of
10 recycling refund covered beverage container producers to implement
11 activities under this act.

12 (24) "Redemption rate" means the number of covered beverage
13 containers redeemed for the recycling refund divided by the number of
14 covered beverage containers sold in the state in a calendar year.

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

18 (26) "Responsible end market" means an entity that:

19 (a) First produces and sells, transfers, or uses recycled content
20 feedstock that meets the quality standards necessary to be used in
21 the creation of new or reconstituted products;

22 (b) Complies with all applicable federal, state, and local
23 statutes, rules, ordinances, and other laws governing environmental,
24 health, safety, and financial responsibility;

25 (c) If the market operates in the state, manages waste according
26 to the state's solid waste management hierarchy established in RCW
27 70A.205.005; and

28 (d) Meets the minimum operational standards adopted under a
29 producer responsibility organization plan to protect the environment,
30 public health, worker health and safety, and minimize adverse impacts
31 to socially vulnerable populations.

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

37 (28) "Reuse" means the redemption and return of a covered
38 beverage container to the marketplace where the continued use of the
39 covered beverage container is:

1 (a) Intentionally designed and marketed to be used multiple times
2 for its original intended purpose without a change in form;

3 (b) Designed for durability and maintenance to extend its useful
4 life and reduce demand for new production of the covered beverage
5 container;

6 (c) Supported by adequate logistics and infrastructure at a
7 retail location, by a service provider, or on behalf of or by a
8 producer, that provides convenient access for consumers; and

9 (d) Compliant with all applicable federal, state, and local
10 statutes, rules, ordinances, and other laws governing health and
11 safety.

12 (29) "Reuse rate" means the share of units of a reusable covered
13 beverage container introduced into the state in a calendar year that
14 are demonstrated and deemed reusable in accordance with an approved
15 plan.

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

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

29 NEW SECTION. **Sec. 3.** PRODUCER RESPONSIBILITIES. (1) A producer
30 must:

31 (a) Beginning April 15, 2026, be a member of the recycling refund
32 producer responsibility organization registered in this state;

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

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

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

3 (2) Upon registration with the recycling refund producer
4 responsibility organization under subsection (1)(a) of this section,
5 the producer must pay the required initial producer fees as
6 determined by the recycling refund producer responsibility
7 organization. The required fees must be paid before the beverage
8 brand is offered for sale, either physically or via e-commerce into
9 Washington.

10 (3) A producer must provide the following to the recycling refund
11 producer responsibility organization by the time any covered beverage
12 container brand is offered for sale, either physically or via e-
13 commerce, using a standardized method provided by the recycling
14 refund producer responsibility organization:

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

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

22 (c) The type of beverage contained in the covered beverage
23 container using an appropriate categorization method for beverages as
24 determined by the recycling refund producer responsibility
25 organization;

26 (d) The size or fluid volume of the covered beverage container;

27 (e) The material type of the covered beverage container; and

28 (f) The universal product code or European article number
29 associated with the covered beverage container.

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

35 (5) The requirements of subsection (3) of this section do not
36 apply to units of the brand that the producer can show have been
37 delivered for sale at an on-site consumption establishment.

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

1 NEW SECTION. **Sec. 4.** RECYCLING REFUND PRODUCER RESPONSIBILITY
2 ORGANIZATION RESPONSIBILITIES. The recycling refund producer
3 responsibility organization must:

4 (1) By March 1, 2026, register with the department;

5 (2) By April 1, 2026, establish an initial producer fee structure
6 to fund the initial implementation of the program, to be used until
7 the recycling refund producer responsibility organization has an
8 approved program plan as required under section 6 of this act, and
9 collect fees annually from registered producers;

10 (3) By June 1, 2026, submit a one-time payment to the department,
11 in lieu of the registration fee required in section 3 of this act, in
12 an amount determined by the department, to cover the previously
13 incurred costs and future estimated costs of the department under
14 this chapter from the effective date of this section through
15 implementation of this section;

16 (4) By July 1, 2027, and each July 1st thereafter, submit an
17 annual registration fee to the department to fund all costs of the
18 department to implement, administer, and enforce this chapter;

19 (5) By January 1, 2028, submit an amount to the department equal
20 to the amount withdrawn through June 30, 2027, from the waste
21 reduction, recycling, and litter control account created under RCW
22 70A.200.140 for the purposes of implementation, administration, and
23 enforcement of this chapter;

24 (6) By January 30, 2027, and every year thereafter, until the
25 program has begun, submit the following:

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

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

31 (7) By July 1, 2027, or six months after rule adoption, whichever
32 is later, and every five years thereafter, submit a program plan that
33 meets the requirements of this chapter to the department for
34 approval;

35 (8) Once the recycling program plan is approved by the department
36 under this section, implement a recycling refund program as described
37 in its approved program plan by July 1, 2029, or six months after
38 plan approval, whichever is later;

- 1 (9) Maintain a registry of all types of covered beverage
2 containers sold and redeemed in this state by all registered
3 producers;
- 4 (10) Set and collect the annual producer fees based on the
5 criteria set forth in this chapter;
- 6 (11) Accept the adequate refund value from retail establishments
7 for covered beverage containers sold;
- 8 (12) Submit the annual reports required under section 20 of this
9 act after the program has begun;
- 10 (13) Ensure that producers operating under a recycling refund
11 program plan administered by the recycling refund producer
12 responsibility organization comply with the requirements of the
13 recycling refund program consumer education plan and with this act;
- 14 (14) Consider and respond in writing to comments received from
15 the recycling refund advisory council;
- 16 (15) Maintain a website that includes:
- 17 (a) A searchable database of current redemption sites; and
18 (b) Consumer education materials about the recycling refund
19 program;
- 20 (16) Notify the department within 30 days of a change made to the
21 contact information for a person responsible for implementing the
22 recycling refund producer program plan, to board membership, or to
23 the executive director;
- 24 (17) Notify the department if fraudulent redemption is
25 identified;
- 26 (18) Ensure timely, negotiated, and fair compensation,
27 maintenance, and operational costs to entities that are leasing space
28 for redemption sites; and
- 29 (19) Comply with all other applicable requirements of this
30 chapter.

31 NEW SECTION. **Sec. 5.** DEPARTMENT OF ECOLOGY RESPONSIBILITIES.

32 (1) The department must implement, administer, and enforce this
33 chapter and may adopt rules as necessary for those purposes. In
34 implementing this chapter, the department has the following
35 responsibilities:

- 36 (a) By January 1, 2026, appoint the initial membership of the
37 recycling refund advisory council, as required under section 7 of
38 this act;

1 (b) Provide administrative and operating support to the recycling
2 refund advisory council, as required under section 7 of this act;

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

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

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

12 (f) Within 120 days of receipt, review and approve, deny, or
13 request additional information for the draft recycling refund program
14 plan required under section 6 of this act, and:

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

19 (ii) If the department denies or requests additional information
20 for a draft plan or amendment, the department must provide the
21 recycling refund producer responsibility organization with the
22 reasons, in writing, that the plan or amendment does not meet the
23 plan requirements of section 6 of this act. The recycling refund
24 producer responsibility organization has 60 days from the date that
25 the rejection or request for additional information is received to
26 submit to the department any additional information necessary for the
27 department's approval. The department must review and approve or
28 disapprove the revised draft plan or amendment no later than 60 days
29 after the department receives it;

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

36 (iv) Prior to approving the draft plan, the department must
37 review the convenience standards and proposed network of redemption
38 sites provided in the plan as required under section 17 of this act
39 using the following criteria:

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

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

5 (C) Access in urban areas is accessible and convenient for
6 individuals relying on public transit or nonmotorized forms of
7 transportation;

8 (D) Reasonable opportunities are provided for individuals to
9 receive immediate refunds for returns of covered beverage containers;
10 and

11 (E) Redemption sites must not disproportionately impact
12 overburdened communities or populations;

13 (g) Review annual reports and:

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

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

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

24 (h) Establish a public website that includes:

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

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

30 (iii) The most recent lists of covered beverage containers
31 developed by the recycling refund producer responsibility
32 organization and information about any material exclusions as
33 described in section 9 of this act.

34 NEW SECTION. **Sec. 6.** RECYCLING REFUND PROGRAM PLAN. The
35 recycling refund program plan submitted to the department must
36 contain the following:

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

- 1 (2) Proposed targets and deadlines for reuse to be achieved;
- 2 (3) A description of how the recycling refund producer
3 responsibility organization will meet performance targets for
4 redemption, recycling, and reuse as described in section 17 of this
5 act;
- 6 (4) How the performance targets will be measured;
- 7 (5) How to facilitate the expansion of reuse systems;
- 8 (6) How the program will incentivize recyclability improvements
9 in the design of covered beverage containers;
- 10 (7) A description of the number and distribution of proposed
11 express and full-service redemption sites to be provided by the
12 program, along with an analysis demonstrating how the proposed
13 network of redemption sites meets the convenience standards and
14 addresses the evaluation criteria outlined in this chapter;
- 15 (8) How the program will conduct statewide education and
16 outreach;
- 17 (9) How the program will conduct education and outreach and
18 provide accessible redemption sites to socially vulnerable
19 populations;
- 20 (10) How the redemption network will be convenient and available
21 to geographically diverse populations and to those that redeem
22 relatively large amounts of covered beverage containers;
- 23 (11) What, if any, alternative access redemption options may be
24 implemented or contracted redemption pick-up operators may be
25 utilized to increase convenience;
- 26 (12) Descriptions of a process to develop recommendations
27 regarding the effectiveness of the plan and a timeline for
28 implementing the findings of those recommendations;
- 29 (13) A schedule of proposed recycling refund covered beverage
30 container producer fees that shall:
- 31 (a) In the first fee setting period, ensure that each packaging
32 type is responsible for covering its own associated costs for
33 material recycling; and
- 34 (b) In subsequent fee setting periods after the first fee setting
35 period, consider incentivizing using materials and design attributes
36 that reduce the environmental impacts and human health impacts of
37 covered beverage containers.
- 38 (14) A description of how the recycling refund producer
39 responsibility organization will establish partnerships with
40 nonprofit organizations, including:

1 (a) The per-container refund value premium approved nonprofit
2 organizations are eligible for under the program;

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

6 (c) Locations of nonprofit partnership drop sites; and

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

9 NEW SECTION. **Sec. 7.** RECYCLING REFUND ADVISORY COUNCIL. (1) The
10 recycling refund advisory council is established to review activities
11 conducted by recycling refund producer responsibility organizations
12 created under section 3 of this act.

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

17 (a) One member representing municipal government;

18 (b) One member representing county government;

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

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

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

29 (f) One member representing an environmental nonprofit
30 organization;

31 (g) One member representing an organization that represents
32 vulnerable populations;

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

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

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

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

3 (l) One member representing the recycling processing sector;

4 (m) One member who is a canner or represents a canner
5 organization; and

6 (n) One member representing the small retail sector.

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

9 (a) Review the recycling refund program plan and provide comments
10 to the recycling refund producer responsibility organization and the
11 department;

12 (b) Review program audits;

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

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

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

23 NEW SECTION. **Sec. 8.** APPLICABLE REFUND VALUE. (1) Every covered
24 beverage container sold or offered for sale in the state has a refund
25 value of 10 cents. The charge for the refund value of covered
26 beverage containers must be separately stated on a receipt, invoice,
27 or similar billing document given to the consumer.

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

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

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

1 NEW SECTION. **Sec. 9.** MATERIAL EXCLUSIONS. The recycling refund
2 producer responsibility organization is not required to pay refunds
3 on:

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

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

10 (3) Any beverage container that is broken or damaged to the
11 extent that the brand appearing on the beverage container cannot be
12 identified. This requirement does not apply to metal and plastic
13 covered beverage containers processed by material recovery facilities
14 before extended producer responsibility for paper and packaging
15 products is implemented.

16 NEW SECTION. **Sec. 10.** CONVENIENCE STANDARD FOR REDEMPTION OF
17 CONTAINERS. The recycling refund producer responsibility organization
18 must propose a quantitative convenience standard that is based on a
19 combination of time, distance, and other measurable factors for
20 redemption of covered beverage containers in the recycling refund
21 program plan that includes the following:

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

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

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

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

1 NEW SECTION. **Sec. 11.** REQUIREMENTS FOR REDEMPTION SITES. (1)

2 Each redemption site must collect all covered beverage containers
3 subject to the recycling refund value except as excluded by section 9
4 of this act. Any location serving as a redemption site shall be
5 fairly compensated through a mutual agreement by the recycling refund
6 producer responsibility organization for providing physical space for
7 redemption and associated maintenance and operational costs of the
8 redemption sites, for the duration of the approved program plan.

9 (2) The recycling refund producer responsibility organization
10 shall provide a sufficient number and distribution of redemption
11 sites to achieve the redemption rate performance and convenience
12 requirements of this chapter.

13 (3) Government entities, nonprofit organizations, individuals,
14 and private organizations are eligible to host redemption sites.

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

19 NEW SECTION. **Sec. 12.** EXPRESS REDEMPTION SITES. (1) The

20 recycling refund producer responsibility organization must, at its
21 own cost, provide express redemption sites that allow consumers to
22 return covered beverage containers. These sites will not require cash
23 handling on-site, rather upon return, containers could be transported
24 to centralized processing facilities if needed, and refunds will be
25 credited to the consumer's virtual account once the covered beverage
26 containers are counted. If a bag-drop program is deployed, the
27 recycling refund producer responsibility organization must credit the
28 cost of any required bag purchase back to the consumer's virtual
29 account when the bag is returned and processed through the recycling
30 refund system.

31 (2) Express redemption sites must be located a convenient
32 distance from a retail establishment, located at a publicly owned
33 facility, located at a privately owned facility, or are at a location
34 otherwise convenient for consumers. Express redemption sites may be
35 located on the property or in the parking lot of a retail
36 establishment, on the property or parking lot of a privately owned
37 facility, on the property or parking lot of a publicly owned
38 facility, public right-of-way, or any other location convenient to
39 consumers.

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

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

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

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

13 (c) Include instructions on how the bag should be utilized and
14 recycled through an express redemption site and any applicable
15 redemption.

16 NEW SECTION. **Sec. 13.** FULL-SERVICE REDEMPTION SITES. (1) A
17 recycling refund organization must ensure the establishment of a
18 sufficient number of full-service redemption sites, either directly
19 or through partnerships with nonprofit organizations, to meet the
20 convenience standards outlined in the approved recycling refund
21 program plan as specified in this chapter. These sites must allow
22 individuals to return covered beverage containers and receive
23 immediate refunds for their returns. The recycling refund producer
24 responsibility organization may also, either directly or through
25 partnerships with local service providers or government entities,
26 offer support services to socially vulnerable populations.
27 Additionally, full-service redemption sites may function as
28 centralized processing facilities, aggregating and processing covered
29 beverage containers from express redemption sites, alternative access
30 redemption options, and contracted redemption pick-up operators
31 within the program.

32 (2) The recycling refund producer responsibility organization may
33 administer a program for nonprofit organizations to participate in
34 the recycling refund redemption program. The nonprofit program may
35 provide, either directly or through partnerships with local service
36 providers or government entities, support services for socially
37 vulnerable populations.

38 (3) The recycling refund producer responsibility organization
39 must administer a program to also accept direct, sorted returns in

1 large volume quantities at its processing facilities for an
2 additional per-container refund value premium if the containers are
3 returned by organizations certified as a nonprofit organization
4 pursuant to section 501(c)(3) of the internal revenue code that are
5 approved by the recycling refund producer responsibility organization
6 and serve very low-income individuals who rely on regular container
7 refunds through the recycling refund system as a source of daily
8 funds. The recycling refund producer responsibility organization must
9 provide pick-up service for containers collected under this section.

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

14 NEW SECTION. **Sec. 14.** RETAIL ESTABLISHMENTS. (1) Each retail
15 establishment must charge and remit the refund value of covered
16 beverage containers. The refund value shall be separately stated on a
17 receipt, invoice, or similar billing document given to the consumer.
18 The retail establishment must submit the following to the recycling
19 refund producer responsibility organization:

20 (a) Remit the refund value for covered beverage containers sold;
21 (b) Information related to point-of-sale transactions for covered
22 beverage containers.

23 (2) A retail establishment larger than 20,000 square feet must
24 sell the standard bags for the bag-drop program offered as part of
25 the recycling refund program at the price established by the
26 recycling refund producer responsibility organization.

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

38 (4) A retail establishment that chooses to host an express
39 redemption site is eligible to have a self-serve kiosk, located at

1 the retailer at no charge by the recycling refund producer
2 responsibility organization, to facilitate the printing of redemption
3 vouchers and pay the value of redemption vouchers to consumers that
4 can be used on the premises.

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

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

13 NEW SECTION. **Sec. 15.** ON-SITE CONSUMPTION ESTABLISHMENTS. (1)
14 The recycling refund producer responsibility organization shall
15 facilitate the collection of covered beverage containers from on-site
16 establishments. The recycling refund producer responsibility
17 organization may facilitate the collection of covered beverage
18 containers from on-site consumption establishments by contracting
19 with a third party. The recycling refund producer responsibility
20 organization shall provide additional assistance for establishments
21 under 5,000 square feet to comply with this act.

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

27 NEW SECTION. **Sec. 16.** USE OF UNREDEEMED REFUNDS. The recycling
28 refund producer responsibility organization may use any refund value
29 that is not redeemed by the consumer for any of the following
30 purposes:

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

33 (2) Improving existing redemption rates;

34 (3) Increasing the number of redemption sites; or

35 (4) Other activities that are described in the recycling refund
36 program plan that directly contribute to achieving the performance
37 requirements described in section 17 of this act and the convenience
38 standards described in section 10 of this act.

1 NEW SECTION. **Sec. 17.** PERFORMANCE REQUIREMENTS FOR THE
2 RECYCLING REFUND PROGRAM. Recycling refund producer responsibility
3 organizations must achieve the following performance requirements:

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

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

10 (3) The reuse rates are to increase each year after the first
11 plan period;

12 (4) Demonstrate that convenience standards as required under this
13 chapter have been achieved or exceeded;

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

15 NEW SECTION. **Sec. 18.** REFUND VALUE TO MATERIAL RECOVERY
16 FACILITIES. (1) Starting after the first full month that covered
17 beverage containers are sold with the applicable refund value, the
18 recycling refund producer responsibility organization shall make a
19 monthly payment directly to each material recovery facility who
20 complies with the reporting criteria outlined in section 20 of this
21 act. Payments are to be based on the data submitted by the material
22 recovery facility under subsection (3) of this section.

23 (2) The recycling refund producer responsibility organization
24 shall establish a quality standard for each material.

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

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

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

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

38 (5) The monthly payment required to material recovery facilities
39 must be equivalent to at least 50 percent of the refund value for

1 covered beverage containers for each covered beverage container
2 material that the material recovery facility transferred to
3 additional materials processing or end markets.

4 (6) Material recovery facilities must share the payments with
5 service providers consistent with their bundled services or
6 processing contracts or other agreements or regulations, as
7 applicable, so that service providers receive the appropriate amount
8 of the refund values paid for the amount of covered beverage
9 containers delivered by the service providers to material recovery
10 facilities and drop-off facilities.

11 (7) Service providers that receive payments under subsection (6)
12 of this section must display the service provider's price, minus the
13 payment from the recycling refund producer responsibility
14 organization, when invoicing customers and, in delivering curbside
15 collection services, pass on the applicable portion of the payment,
16 through solid waste rate reductions or credits, to all customers
17 receiving curbside collection services eligible for reimbursement.

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

21 (9) The recycling refund producer responsibility organization may
22 conduct quarterly audits on the quality and quantity of the material
23 recovery facilities' material upon request by the organization and at
24 the organization's expense.

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

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

36 NEW SECTION. **Sec. 19.** COORDINATION PLAN. (1) If an extended
37 producer responsibility program for paper and packaging is enacted in
38 the state, the paper and packaging producer responsibility
39 organization and the recycling refund producer responsibility

1 organization must create a coordination plan to ensure that programs
2 are complementary and that all targets are met. As part of the
3 coordination plan, the paper and packaging producer responsibility
4 organization and the recycling refund producer responsibility
5 organization are to identify actions to jointly optimize
6 infrastructure for recycling collection and reuse programs for both
7 programs.

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

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

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

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

23 (d) An evaluation strategy to assess opportunities to coordinate
24 identification of, and efficient access to, collection
25 infrastructure, processing infrastructure, reuse infrastructure, and
26 responsible end markets.

27 NEW SECTION. **Sec. 20.** REPORTING. (1) Beginning April 30, 2029,
28 and each year thereafter, the recycling refund producer
29 responsibility organization must submit an annual report to the
30 department for the preceding year that contains the following:

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

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

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

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

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

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

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

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

8 (c) Documentation that access to redemption sites in urban areas
9 builds on existing recycling convenience and is accessible and
10 convenient for individuals relying on public transit or nonmotorized
11 forms of transportation;

12 (d) Documentation that reasonable opportunities are provided for
13 individuals to receive immediate refunds for returns of covered
14 beverage containers;

15 (e) Documentation of large volume redemption options;

16 (f) An evaluation of whether redemption options
17 disproportionately burden underserved communities or socially
18 vulnerable populations;

19 (g) Results of consumer awareness and behavior surveys;

20 (h) Progress made toward the performance targets reported in the
21 same units used to establish producer fees under section 4 of this
22 act and reported statewide, for each county, and for each city with a
23 population greater than 1.5 percent of the state population,
24 including the amount of recycling refund covered beverage containers
25 successfully reused, recycled, and disposed of by recycling refund
26 covered materials type and the type of redemption site used;

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

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

32 (ii) A description of infrastructure investments made;

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

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

37 (j) A list of producers found to be out of compliance with this
38 act and actions taken by the recycling refund producer responsibility
39 organization to return producers to compliance, and notification of
40 any producers that are no longer participating in the organization or

1 have been expelled due to their lack of compliance with proposed
2 amendments to the recycling refund program plan to improve program
3 performance or reduce costs, including changes to producer fees,
4 infrastructure investments, reimbursement rates, or the refund value;
5 and

6 (k) Recommendations for additions or removals of covered beverage
7 containers as prescribed under section 4 of this act.

8 (3) All data reported by the recycling refund producer
9 responsibility organization under this section must, at the request
10 of the department no more than once annually, be audited by an
11 independent third party. The recycling refund producer responsibility
12 organization is responsible for all costs associated with the data
13 audit. Auditable data shall only include data held by the recycling
14 refund producer responsibility organization. Auditing of any data
15 inputs to the recycling refund producer responsibility organization
16 is the responsibility of the recycling refund producer responsibility
17 organization.

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

28 NEW SECTION. **Sec. 21.** The recycling refund producer
29 responsibility organization that fails to meet a performance target
30 approved in a recycling refund program plan must, within 90 days of
31 filing an annual report under section 20 of this act, file with the
32 department an explanation of the factors contributing to the failure
33 and propose an amendment to the recycling refund program plan
34 specifying changes in operations that the recycling refund producer
35 responsibility organization will make that are designed to achieve
36 the performance targets. An amendment filed under this section must
37 be reviewed by the recycling refund advisory council and reviewed and
38 approved by the department.

1 NEW SECTION. **Sec. 22.** Beginning April 30, 2029, and each year
2 thereafter, each material recovery facility and material processor
3 that receives recycling refund program covered materials must report
4 to the department the following:

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

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

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

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

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

14 NEW SECTION. **Sec. 23.** ANTICOMPETITIVE CONDUCT. The recycling
15 refund producer responsibility organization that arranges redemption,
16 recycling, waste reduction, or reuse services under this act may
17 engage in anticompetitive conduct to the extent necessary to plan and
18 implement redemption, recycling, waste reduction, or reuse systems to
19 meet the obligations under this act, and is immune from liability
20 under state laws relating to antitrust, restraint of trade, and
21 unfair trade practices.

22 NEW SECTION. **Sec. 24.** ENFORCEMENT. (1) The following penalties
23 apply to producers:

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

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

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

1 (a) The department may administratively impose a civil penalty of
2 up to \$1,000 per violation per day on any recycling refund producer
3 responsibility organization that violates this chapter and up to
4 \$10,000 per violation per day for the second and each subsequent
5 violation in any calendar year.

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

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

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

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

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

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

22 (3) A person may not sell or distribute in or into the state a
23 covered beverage container of a producer that is not participating in
24 the recycling refund producer responsibility organization.

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

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

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

1 (5) Penalties levied under this section must be deposited in the
2 recycling enhancement account created in RCW 70A.245.100.

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

6 NEW SECTION. **Sec. 25.** RECYCLING REFUND PROGRAM ACCOUNT. The
7 recycling refund program account is created in the custody of the
8 state treasurer. All receipts received by the department under this
9 chapter must be deposited in the account. Expenditures from the
10 account may be used by the department only for implementing,
11 administering, and enforcing the requirements of this chapter. Only
12 the director of the department may authorize expenditures from the
13 account. The account is subject to the allotment procedures under
14 chapter 43.88 RCW, but an appropriation is not required for
15 expenditures.

16 NEW SECTION. **Sec. 26.** A new section is added to chapter 82.04
17 RCW to read as follows:

18 In computing tax due under this chapter, a taxpayer may deduct
19 from the measure of tax amounts derived from charges for the refund
20 value of qualifying beverage containers as required under chapter
21 70A.--- RCW (the new chapter created in section 32 of this act). To
22 qualify for this deduction, the taxpayer must separately itemize the
23 charges for the refund value on a receipt, invoice, or similar
24 billing document given to the purchaser. The amount of the deduction
25 claimed under this section for a reporting period may not exceed the
26 aggregate charges for the refund value of qualifying beverage
27 containers for beverages sold by the taxpayer during such a reporting
28 period.

29 **Sec. 27.** RCW 82.19.050 and 2005 c 289 s 1 are each amended to
30 read as follows:

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

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

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

36 (3) The sale of products for resale by a qualified grocery
37 distribution cooperative to customer-owners of the grocery

1 distribution cooperative. For the purposes of this section,
2 "qualified grocery distribution cooperative" and "customer-owner"
3 have the meanings given in RCW 82.04.298;

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

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

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

15 (i) "Prepared food" has the same meaning as provided in RCW
16 82.08.0293.

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

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

26 (6) The charge for the refund value of qualifying beverage
27 containers as required under chapter 70A.--- RCW (the new chapter
28 created in section 32 of this act), if the charge is separately
29 stated on a receipt, invoice, or similar billing document given to
30 the purchaser.

31 **Sec. 28.** RCW 43.21B.110 and 2024 c 347 s 5, 2024 c 340 s 4, and
32 2024 c 339 s 16 are each reenacted and amended to read as follows:

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

1 (a) Civil penalties imposed pursuant to chapter 70A.230 RCW and
2 RCW 18.104.155, 70A.15.3160, 70A.300.090, 70A.20.050, 70A.230.020,
3 70A.205.280, 70A.355.070, 70A.430.070, 70A.500.260, 70A.505.100,
4 70A.505.110, 70A.530.040, 70A.350.070, 70A.515.060, 70A.245.040,
5 70A.245.050, 70A.245.070, 70A.245.080, 70A.245.130, 70A.245.140,
6 70A.65.200, 70A.455.090, 70A.550.030, 70A.555.110, 70A.560.020,
7 70A.565.030, section 24 of this act, 76.09.170, 77.55.440, 78.44.250,
8 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and
9 90.64.102.

10 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
11 18.104.130, 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.15.4530,
12 70A.15.6010, 70A.205.280, 70A.214.140, 70A.300.120, 70A.350.070,
13 70A.245.020, 70A.65.200, 70A.505.100, 70A.555.110, 70A.560.020,
14 70A.565.030, section 24 of this act, 86.16.020, 88.46.070, 90.03.665,
15 90.14.130, 90.46.250, 90.48.120, 90.48.240, 90.56.330, and 90.64.040.

16 (c) Except as provided in RCW 90.03.210(2), the issuance,
17 modification, or termination of any permit, certificate, or license
18 by the department or any air authority in the exercise of its
19 jurisdiction, including the issuance or termination of a waste
20 disposal permit, the denial of an application for a waste disposal
21 permit, the modification of the conditions or the terms of a waste
22 disposal permit, a decision to approve or deny a solid waste
23 management plan under RCW 70A.205.055, approval or denial of an
24 application for a beneficial use determination under RCW 70A.205.260,
25 an application for a change under RCW 90.03.383, or a permit to
26 distribute reclaimed water under RCW 90.46.220.

27 (d) Decisions of local health departments regarding the granting
28 or denial of solid waste permits pursuant to chapter 70A.205 RCW,
29 including appeals by the department as provided in RCW 70A.205.130.

30 (e) Decisions of local health departments regarding the issuance
31 and enforcement of permits to use or dispose of biosolids under RCW
32 70A.226.090.

33 (f) Decisions of the department regarding waste-derived
34 fertilizer or micronutrient fertilizer under RCW 15.54.820.

35 (g) Decisions of local conservation districts related to the
36 denial of approval or denial of certification of a dairy nutrient
37 management plan; conditions contained in a plan; application of any
38 dairy nutrient management practices, standards, methods, and
39 technologies to a particular dairy farm; and failure to adhere to the

1 plan review and approval timelines in RCW 90.64.026 as provided in
2 RCW 90.64.028.

3 (h) Any other decision by the department or an air authority
4 which pursuant to law must be decided as an adjudicative proceeding
5 under chapter 34.05 RCW.

6 (i) Decisions of the department of natural resources, the
7 department of fish and wildlife, and the department that are
8 reviewable under chapter 76.09 RCW, and the department of natural
9 resources' appeals of county, city, or town objections under RCW
10 76.09.050(7).

11 (j) Forest health hazard orders issued by the commissioner of
12 public lands under RCW 76.06.180.

13 (k) Decisions of the department of fish and wildlife to issue,
14 deny, condition, or modify a hydraulic project approval permit under
15 chapter 77.55 RCW, to issue a stop work order, to issue a notice to
16 comply, to issue a civil penalty, or to issue a notice of intent to
17 disapprove applications.

18 (l) Decisions of the department of natural resources that are
19 reviewable under RCW 78.44.270.

20 (m) Decisions of an authorized public entity under RCW 79.100.010
21 to take temporary possession or custody of a vessel or to contest the
22 amount of reimbursement owed that are reviewable by the hearings
23 board under RCW 79.100.120.

24 (n) Decisions of the department of ecology that are appealable
25 under RCW 70A.245.020 to set recycled minimum postconsumer content
26 for covered products or to temporarily exclude types of covered
27 products in plastic containers from minimum postconsumer recycled
28 content requirements.

29 (o) Orders by the department of ecology under RCW 70A.455.080.

30 (2) The following hearings shall not be conducted by the hearings
31 board:

32 (a) Hearings required by law to be conducted by the shorelines
33 hearings board pursuant to chapter 90.58 RCW, except where appeals to
34 the pollution control hearings board and appeals to the shorelines
35 hearings board have been consolidated pursuant to RCW 43.21B.340.

36 (b) Hearings conducted by the department pursuant to RCW
37 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,
38 70A.15.3110, and 90.44.180.

39 (c) Appeals of decisions by the department under RCW 90.03.110
40 and 90.44.220.

1 (d) Hearings conducted by the department to adopt, modify, or
2 repeal rules.

3 (3) Review of rules and regulations adopted by the hearings board
4 shall be subject to review in accordance with the provisions of the
5 administrative procedure act, chapter 34.05 RCW.

6 **Sec. 29.** RCW 43.21B.300 and 2024 c 347 s 6 and 2024 c 340 s 5
7 are each reenacted and amended to read as follows:

8 (1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160,
9 70A.205.280, 70A.230.080, 70A.300.090, 70A.20.050, 70A.245.040,
10 70A.245.050, 70A.245.070, 70A.245.080, 70A.245.130, 70A.245.140,
11 70A.65.200, 70A.430.070, 70A.455.090, 70A.500.260, 70A.505.110,
12 70A.555.110, 70A.560.020, section 24 of this act, 70A.565.030,
13 86.16.081, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310,
14 90.56.330, and 90.64.102 and chapter 70A.355 RCW shall be imposed by
15 a notice in writing, either by certified mail with return receipt
16 requested or by personal service, to the person incurring the penalty
17 from the department or the local air authority, describing the
18 violation with reasonable particularity. For penalties issued by
19 local air authorities, within 30 days after the notice is received,
20 the person incurring the penalty may apply in writing to the
21 authority for the remission or mitigation of the penalty. Upon
22 receipt of the application, the authority may remit or mitigate the
23 penalty upon whatever terms the authority in its discretion deems
24 proper. The authority may ascertain the facts regarding all such
25 applications in such reasonable manner and under such rules as it may
26 deem proper and shall remit or mitigate the penalty only upon a
27 demonstration of extraordinary circumstances such as the presence of
28 information or factors not considered in setting the original
29 penalty.

30 (2) Any penalty imposed under this section may be appealed to the
31 pollution control hearings board in accordance with this chapter if
32 the appeal is filed with the hearings board and served on the
33 department or authority 30 days after the date of receipt by the
34 person penalized of the notice imposing the penalty or 30 days after
35 the date of receipt of the notice of disposition by a local air
36 authority of the application for relief from penalty.

37 (3) A penalty shall become due and payable on the later of:

38 (a) 30 days after receipt of the notice imposing the penalty;

1 (b) 30 days after receipt of the notice of disposition by a local
2 air authority on application for relief from penalty, if such an
3 application is made; or

4 (c) 30 days after receipt of the notice of decision of the
5 hearings board if the penalty is appealed.

6 (4) If the amount of any penalty is not paid to the department
7 within 30 days after it becomes due and payable, the attorney
8 general, upon request of the department, shall bring an action in the
9 name of the state of Washington in the superior court of Thurston
10 county, or of any county in which the violator does business, to
11 recover the penalty. If the amount of the penalty is not paid to the
12 authority within 30 days after it becomes due and payable, the
13 authority may bring an action to recover the penalty in the superior
14 court of the county of the authority's main office or of any county
15 in which the violator does business. In these actions, the procedures
16 and rules of evidence shall be the same as in an ordinary civil
17 action.

18 (5) All penalties recovered shall be paid into the state treasury
19 and credited to the general fund except the following:

20 (a) Penalties imposed pursuant to RCW 18.104.155 must be credited
21 to the reclamation account as provided in RCW 18.104.155(7);

22 (b) Penalties imposed pursuant to RCW 70A.15.3160 must be
23 disposed of pursuant to RCW 70A.15.3160;

24 (c) Penalties imposed pursuant to RCW 70A.230.080, 70A.300.090,
25 70A.430.070, 70A.555.110, and 70A.560.020 must be credited to the
26 model toxics control operating account created in RCW 70A.305.180;

27 (d) Penalties imposed pursuant to RCW 70A.245.040 and 70A.245.050
28 must be credited to the recycling enhancement account created in RCW
29 70A.245.100;

30 (e) Penalties imposed pursuant to RCW 70A.500.260 must be
31 deposited into the electronic products recycling account created in
32 RCW 70A.500.130;

33 (f) Penalties imposed pursuant to RCW 70A.65.200 must be credited
34 to the climate investment account created in RCW 70A.65.250;

35 (g) Penalties imposed pursuant to RCW 90.56.330 must be credited
36 to the coastal protection fund established in RCW 90.48.390; (~~and~~)

37 (h) Penalties imposed pursuant to RCW 70A.355.070 must be
38 credited to the underground storage tank account created in RCW
39 70A.355.090; and

1 (i) Penalties imposed pursuant to chapter 70A.--- RCW (the new
2 chapter created in section 32 of this act), which shall be credited
3 to the recycling enhancement account created in RCW 70A.245.100.

4 **Sec. 30.** RCW 70A.245.100 and 2021 c 313 s 13 are each amended to
5 read as follows:

6 The recycling enhancement account is created in the custody of
7 the state treasurer. All penalties collected by the department
8 pursuant to RCW 70A.245.040 (~~and~~), 70A.245.050, and section 24 of
9 this act must be deposited in the account. Only the director of the
10 department or the director's designee may authorize expenditures from
11 the account. The account is subject to the allotment procedures under
12 chapter 43.88 RCW, but an appropriation is not required for
13 expenditures. Expenditures from the account may be used by the
14 department only for providing grants to local governments for the
15 purpose of supporting local solid waste and financial assistance
16 programs.

17 NEW SECTION. **Sec. 31.** The provisions of RCW 82.32.805 and
18 82.32.808 do not apply to sections 26 and 27 of this act.

19 NEW SECTION. **Sec. 32.** Sections 1 through 25 of this act
20 constitute a new chapter in Title 70A RCW.

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