
ENGROSSED SECOND SUBSTITUTE SENATE BILL 5397

AS AMENDED BY THE HOUSE

Passed Legislature - 2019 Regular Session

State of Washington **66th Legislature** **2019 Regular Session**

By Senate Ways & Means (originally sponsored by Senators Rolfes, Carlyle, Darneille, Saldaña, Hasegawa, Hunt, and Kuderer)

READ FIRST TIME 03/01/19.

1 AN ACT Relating to the responsible management of plastic
2 packaging; adding a new chapter to Title 70 RCW; creating a new
3 section; and providing an expiration date.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

6 (a) Convenient and environmentally sound product stewardship
7 programs that include collecting, transporting, and reuse, recycling,
8 or the proper end-of-life management of unwanted products help
9 protect Washington's environment and the health of state residents;

10 (b) Unwanted products should be managed where priority is placed
11 on prevention, waste reduction, source reduction, recycling, and
12 reuse over energy recovery and landfill disposal; and

13 (c) Producers of plastic packaging should consider the design and
14 management of their packaging in a manner that ensures minimal
15 environmental impact. Producers of plastic packaging should be
16 involved from design concept to end-of-life management to incentivize
17 innovation and research to minimize environmental impacts.

18 (2) Additionally, the legislature finds that, through design and
19 innovation, industry should strive to achieve the goals of recycling
20 one hundred percent of packaging, using at least twenty percent

1 postconsumer recycled content in packaging, and reducing plastic
2 packaging when possible to optimize the use to meet the need.

3 (3) The legislature intends that the department, through a
4 consultative process with industry and consumer interest, develop
5 options to reduce plastic packaging in the waste stream for
6 implementation by January 1, 2022.

7 NEW SECTION. **Sec. 2.** The definitions in this section apply
8 throughout this chapter unless the context clearly requires
9 otherwise.

10 (1) "Brand" means a name, symbol, word, or mark that identifies a
11 product, rather than its components, and attributes the covered
12 product to the owner of the brand as the producer.

13 (2) "Department" means the department of ecology.

14 (3) "Producer" means a person who has legal ownership of the
15 brand, brand name, or cobrand of plastic packaging sold in or into
16 Washington state.

17 (4) "Recycling" has the same meaning as defined in RCW 70.95.030.

18 (5) "Stakeholder" means a person who may have an interest in or
19 be affected by the management of plastic packaging.

20 NEW SECTION. **Sec. 3.** (1) The department must evaluate and
21 assess the amount and types of plastic packaging sold into the state
22 as well as the management and disposal of plastic packaging. When
23 conducting the evaluation, the department must ensure that producers,
24 providers of solid waste management services, and stakeholders are
25 consulted. The department must produce a report that includes:

26 (a) An assessment of the:

27 (i) Amount and types of plastic packaging currently produced in
28 or coming into the state by category;

29 (ii) Full cost of managing plastic packaging waste, including the
30 cost to ratepayers, businesses, and others, with consideration given
31 to costs that are determined by volume or weight;

32 (iii) Final disposition of all plastic packaging sold into the
33 state, based on current information available at the department;

34 (iv) Costs and savings to all stakeholders in existing product
35 stewardship programs where they have been implemented including,
36 where available, the specific costs for the management of plastic
37 packaging;

1 (v) Infrastructure necessary to manage plastic packaging in the
2 state;

3 (vi) Contamination and sorting issues facing the current plastic
4 packaging recycling stream; and

5 (vii) Existing organizations and databases for managing plastic
6 packaging that could be employed for use in developing a program in
7 the state;

8 (b) A compilation of:

9 (i) All the programs currently managing plastic packaging in the
10 state, including all end-of-life management and litter and
11 contamination cleanup; and

12 (ii) Existing studies regarding the final disposition of plastic
13 packaging and material recovery facilities residual composition,
14 including data on cross-contamination of other recyclables,
15 contamination in compost, and brand data in litter when available;

16 (c) A review and identification of businesses in Washington that
17 use recycled plastic material as a feedstock or component of a
18 product produced by the company; and

19 (d) A review of industry and any other domestic or international
20 efforts and innovations to reduce, reuse, and recycle plastic and
21 chemically recycle packaging, utilize recycled content in packaging,
22 and develop new programs, systems, or technologies to manage plastics
23 including innovative technologies such as pyrolysis and gasification
24 processes to divert recoverable polymers and other materials away
25 from landfills and into valuable raw, intermediate, and final
26 products.

27 (2) The department must contract with a third-party independent
28 consultant to conduct the evaluation and assessment as required under
29 subsection (1) of this section. In developing the recommendations,
30 the department must ensure consistency with the federal food, drug,
31 and cosmetic act (21 U.S.C. Sec. 301 et. seq).

32 (3) (a) By October 31, 2020, the department must submit a report
33 on the evaluation and assessment of plastic packaging to the
34 appropriate committees of the legislature. The department must cite
35 the sources of information that it relied upon in the report and that
36 the independent consultant relied upon in the assessment, including
37 any sources of peer-reviewed science.

38 (b) The report required under this subsection must include:

1 (i) Findings regarding amount and types of plastic packaging sold
2 into the state as well as the management and disposal of plastic
3 packaging;

4 (ii) Recommendations to meet the goals of reducing plastic
5 packaging, including through industry initiative or plastic packaging
6 product stewardship, or both, to:

7 (A) Achieve one hundred percent recyclable, reusable, or
8 compostable packaging in all goods sold in Washington by January 1,
9 2025;

10 (B) Achieve at least twenty percent postconsumer recycled content
11 in packaging by January 1, 2025; and

12 (C) Reduce plastic packaging when possible optimizing the use to
13 meet the need; and

14 (iii) For the purposes of legislative consideration, options to
15 meet plastic packaging reduction goals, that are capable of being
16 established and implemented by January 1, 2022. For proposed options,
17 the department must identify expected costs and benefits of the
18 proposal to state and local government agencies to administer and
19 enforce the rule, and to private persons or businesses, by category
20 of type of person or business affected.

21 NEW SECTION. **Sec. 4.** This chapter expires July 1, 2029.

22 NEW SECTION. **Sec. 5.** Sections 1 through 4 of this act
23 constitute a new chapter in Title 70 RCW.

24 NEW SECTION. **Sec. 6.** If specific funding for the purposes of
25 this act, referencing this act by bill or chapter number, is not
26 provided by June 30, 2019, in the omnibus appropriations act, this
27 act is null and void.

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