

SENATE BILL REPORT

E2SSB 5284

As Amended by House, April 14, 2025

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

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

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Lovelett, Shewmake, Nobles, Bateman, Salomon, Saldaña, Stanford, Wilson, C., Frame, Pedersen, Hasegawa, Lias, Orwall, Slatter and Valdez).

Brief History:

Committee Activity: Environment, Energy & Technology: 1/28/25, 2/14/25 [DPS-WM, DNP, w/oRec].

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

Floor Activity: Passed Senate: 3/7/25, 27-22.

Passed House: 4/14/25, 51-45.

Brief Summary of Engrossed Second Substitute Bill

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

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

Majority Report: That Substitute Senate Bill No. 5284 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, Lias, Lovelett, Ramos and Wellman.

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.

Minority Report: Do not pass.

Signed by Senators Harris, MacEwen and Short.

Minority Report: That it be referred without recommendation.

Signed by Senator Boehnke, Ranking Member.

Staff: Alicia Kinne-Clawson (786-7407)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5284 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; Dozier, Assistant Ranking Member, Capital; Boehnke, Wagoner and Warnick.

Minority Report: That it be referred without recommendation.

Signed by Senators Schoesler, Ranking Member, Capital; Braun, Muzzall and Wellman.

Staff: Jed Herman (786-7346)

Background: Solid Waste Management in Washington. Under the state's solid waste management laws, local governments are the primary government entity responsible for implementing state solid waste management requirements. The Department of Ecology (Ecology) also has certain roles in overseeing the administration of solid waste management laws. Ecology is responsible for working cooperatively with local governments as they develop their local solid waste management plans. County and city solid waste management plans are required to contain certain elements, including a waste reduction and recycling element, and a recycling contamination reduction and outreach plan. Under state laws addressing the local planning and management of solid waste, a waste management hierarchy is established for the collection, handling, and management of solid waste. This hierarchy prioritizes in descending order: (1) waste reduction, (2) recycling, with source separation of recyclable materials as the preferred method, (3) energy recovery, incineration, or landfill of separated waste, and (4) energy recovery, incineration, or landfill of mixed municipal solid wastes.

The Utilities and Transportation Commission (UTC) regulates private service providers that transport solid waste, garbage, and recyclables from residential sites. The certificate to

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

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

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

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

Summary of Engrossed Second Substitute Bill: Producers and Producer Responsibility Organizations. By January 1, 2026, each producer of packaging and paper products (PPP) must appoint a producer responsibility organization. By March 1, 2026, the Producers and Producer Responsibility Organizations (PRO) must register with Ecology. During the first plan period, Ecology may not allow registration of more than one PRO, other than individual producers registering as PROs.

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

For each covered material, a single specified person—either the material's manufacturer, brand licensee, brand owner, importer of record, distributor of the material in Washington,

or another person assigned contractual responsibility as a producer—is defined as the producer responsible for participation in a PRO. Producers do not include government entities, nonprofit organizations, or entities that introduce de minimis volumes of covered PPP. Agricultural employers with less than \$5 million, adjusted annually for inflation, in gross revenue in Washington from consumer sales of agricultural commodities under the employer's brand name are exempt as de minimis entities.

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

A PRO is responsible for:

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

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

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

- appointing membership to the advisory council, providing written responses to comments received from the advisory council, and providing administrative and operating support to the advisory council;
- accepting the registration of, and where necessary, selecting the PRO;
- developing the statewide collection list;
- determining the one time and annual registration fee;
- completing the statewide needs assessment;
- reviewing and approving PRO plans;
- reviewing material exemption requests and review and make determinations on alternative recycling proposals;
- establishing a public website;
- creating model comprehensive solid waste plan amendments for cities and counties; and
- enforcement of the program.

Fees. By September 1, 2026, a PRO must make a one-time payment to Ecology, in an amount determined by Ecology, to cover program costs through June 30, 2027. By March 31, 2027, annually thereafter, Ecology must determine the total annual registration fee paid by each PRO that is adequate to cover, but not exceed, the costs to implement, administer, and enforce the program.

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

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

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

Any fees collected from producers under this chapter may not be used for lobbying or political advocacy activities that would require reporting to the Public Disclosure Commission or under the Federal Election Campaign Act.

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

Reimbursements for covered services may only be provided to service providers that meet performance standards established in a PRO plan. The service provider reimbursement schedule phases in the share of the costs as covered by the PRO as follows:

- no less than 50 percent of net costs by February 15, 2030;
- no less than 75 percent of net costs by February 15, 2031; and
- no less than 90 percent of net costs by February 15, 2032.

Service providers, in delivering curbside collections services, are required to pass on the applicable portion of reimbursement from the PRO to the customer in the form of rate reductions or credits. Service providers retain all revenue from the sale of covered PPP unless otherwise agreed to by the service provider. Service providers may charge a fee for covered services of covered PPP to the extent that PRO reimbursement does not cover all costs of services. A PRO must establish a reimbursement dispute resolution process using

third-party mediators.

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

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

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

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

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

Statewide Needs Assessment. By December 31, 2026, Ecology must complete a preliminary needs assessment. The preliminary needs assessment must include identification of covered materials and material types, tons of collected covered materials, characteristics of current recycling and composting services, evaluation of recycling and solid waste services currently being delivered by local governments, processing capacity at material recovery facilities, and other collection, processing, servicing, and commodity market information. In completing the needs assessment, the draft must be made available for comment by local governments.

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

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

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

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

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

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

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

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

During the first PRO plan implementation period, for a group of producers representing a majority of a distinct covered material or packaging type, Ecology may be petitioned to consider an alternative collection mode.

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

Reuse Program. Beginning in 2029, each PRO must annually fund and implement a Reuse Financial Assistance Program (Reuse Program) to reduce the negative environmental impacts of covered PPP through reuse. The PROs must collectively fund the Reuse Program at \$5 million in 2029; an amount which is subject to an annual inflation adjustment and to adjustment if the PRO's reuse and return rate targets or statewide requirements go unmet.

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

A PRO that fails to meet a performance target in an approved plan must, within 90 days of filing an annual report, file with Ecology an explanation of factors contributing to the failure and propose a plan amendment specifying changes designed to achieve the performance target.

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

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

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

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

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

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

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

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

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

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

Appropriation: None.

Fiscal Note: Available.

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

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

Staff Summary of Public Testimony on Original Bill (Environment, Energy & Technology): *The committee recommended a different version of the bill than what was*

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

Every year volunteers with the Surfrider Foundation clean up thousands of pounds of plastic debris out of our waters and beaches. Most of this is single use plastics that should have been recycled. We need to cut plastic packaging at its source. This bill requires the recycling industry to only sell materials to responsible markets. Washingtonians will easily know what can go into their bins and how it will be recycled. Microplastics that result from the breakdown of plastic end up in our food, water supply, and concentrating in animals and fish. They result in increased disease in humans. The Washington State Medical Association adopted a resolution recognizing the health risks of plastic waste and called for policies to reduce human exposure. The Recycling Reform Act is one tool to do this.

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

We are hoping the reusable section will be tweaked so that it is more robust. Reusables are the future of packaging but need some help to scale. Incentives will ensure producers contribute to building a reuse economy. As an industry, we want to recover as much glass as possible. This bill has enough tools to improve the recycling system. The bill allows for a future deposit return system which we support. We suggest removing the restriction on the use of recycled content as one path to achieving source reduction targets. We believe the Minnesota approach is the right approach including use of a fair funding formula to support all stakeholders and calculating a workable fee structure. EPR are proven and effective solutions for improving recycling and reducing waste. This will strengthen local recycling programs. We have the capacity to increase recycling operations but not enough materials.

This program would generate critical investment in state recycling systems and incentivize the use of sustainable packaging materials. The bill includes a robust needs assessment process which will be informed by Washington's existing systems. This bill will create green local jobs. The bill includes labor standards that ensure workers at sorting facilities have adequate protections. There is no credible evidence that EPR increases costs to consumers. We know Washington households are already paying \$8 to \$10 per month or more for recycling. This is a real and growing cost burden.

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

This is a program that has never been implemented in any state. Those states that have passed it are going through very difficult implementation journeys and finding it expensive and cumbersome. Those are costs that the producer will pass on to the consumer. In Europe and Canada the EPR programs do not bear out the claims. Food packaging is regulated by the FDA and there are limited options available for use. No post consumer type blend has been approved by the FDA for agriculture. Both California and Maine have provided exemptions for perishable products. Any cost that impacts farms is very difficult. The needs assessment is critical and we think that needs to be completed first. The definition of producer in the bill allows producers to shirk their responsibility and impose those obligations on distributors or retailers who aren't in a position to oppose it. We are concerned about the timeline, increased cost to consumers, and availability of molecular recycling technologies in implementing this bill. We are concerned about this institution a patchwork of state laws that all differ.

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

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

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

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

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

Persons Signed In To Testify But Not Testifying (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: Residents are spending significant time and money on their recycling bill or to clean up plastic from the environment. This bill shifts the burden and incentivizes producers to have more recyclable materials in their packaging and will support the economy by creating local supply chains. An effective EPR policy delivers strong enviro outcomes and is efficient, cost effective, and convenient for the consumer.

This bill will generate necessary funding to improve rates and expand recycling opportunities to Washingtonians. It shifts the costs to producers of packaging material and incentivizes them to use more sustainable packaging. We understand the cost implication to the industry and believe this is the best way for the industry to participate in the recycling system in the state. Key issues that have been integrated include a fair funding formula and a strong and collaborative development process with producers. This approach is consistent with other states and is the right approach at the right time to move EPR forward in Washington

CON: This bill is modeled after other EPR Programs and the estimated costs of these programs in other states have been significant and no other states have fully implemented an EPR Program. Producers in other cities and states are facing millions of dollars to comply with these programs. This program will produce higher costs of groceries and the costs of implementation on the producers will be passed down to individuals with no proven positive outcome. The average restaurant is operating on a 1.5 percent profit margin. This program proposes significant and unknown costs to Washingtonians.

The lengthy fiscal note underscores how complex the bill is and the uncertainty that exists. The local government fiscal note indicates that they are not able to estimate how cities or counties will participate nor how changes in service level will occur. There are already existing recyclable packaging requirements. It is unclear exactly what the producers will be paying for as much of the language in the bill refers to rule making, such as for producer costs, packaging requirements, and performance targets. This will be extremely expensive to consumers but by how much is unknown as no EPR has been fully implemented in any state. EPR Programs are a direct cost driver to the cost of groceries and we know with absolute certainty that the costs will be passed down to consumers. There are concerns with the lack of a needs assessment which clarifies where the gaps in the existing system are. This is critical to create a useful and thoughtful approach to developing an EPR Program.

OTHER: DOE's costs are primarily to fund startup of the EPR Program and ongoing costs would be funded by the PRO in advance. This will improve service to over 500,000 homes. There are concerns about the definition of producers as there needs to be an ability to contract with producers of store branded items and that has been altered in the bill. Consumers will be charged more for these products. None of the states that have adopted EPR are fully implemented. We should push pause and see what other states ultimately do with their programs. This is complex and it will be costly to comply. County Waste Management Programs are funded primarily with disposal fees. When waste decreases, counties lose essential funding and it will not work to raise prices. Counties need reliable revenue sources in order to produce desired waste reduction outcomes.

Persons Testifying (Ways & Means): PRO: Peter Steelquist, Surfrider Foundation; Kelsey Hulse, EPR Leadership Forum; Brad Boswell, Washington Beverage Association; Amy Ockerlander, Association of Washington Cities; Edwin Borbon, AMERIPEN.

CON: Lyset Cadena, WM (Waste Management); Samantha Louderback, Washington Hospitality Association; Vicki Christophersen, Washington Refuse and Recycling Assoc.; Jennifer Ziegler, Sanitary Service Company; Brandon Houskeeper, NW Grocery Retail Association; Holly Chisa, Consumer Brands Association; Katie Beeson, Washington Food Industry Association (WFIA); Natalie Hester, Republic Services; Peter Godlewski, Association of Washington Business.

OTHER: Mark Johnson, Washington Retail Association; Peter Lyon, Washington Department of Ecology, Solid Waste Management Program; Paul Jewell, Washington State

Association of Counties.

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

EFFECT OF HOUSE AMENDMENT(S):

- Allows for an alternative means to identify socially vulnerable populations if the US CDC tool is no longer available.
- Modifies the due date for the one-time PRO fee and clarifies what the first PRO fee must cover.
- Requires PROs to provide producers with information regarding state and federal laws that restrict toxic substances rather than prohibiting toxic substances.
- Prohibits state and local elected officials, Ecology solid waste or policy division employees, and formerly elected officials who served within the last three years from serving on the board of the PRO or as employees of the PRO.
- Establishes an equity subcommittee of the advisory council to provide information, make recommendations, and review PRO plans regarding impacts to socially vulnerable populations and overburdened communities.
- Clarifies that the PRO must adopt multiple statewide collection lists, rather than a single list.
- Specifies that a PRO may propose multiple alternative collection programs for covered materials.
- Requires Ecology to notify the appropriate committees of the Legislature when a draft PRO plan has been submitted and posted to Ecology's website.
- Provides that Ecology's approval of the first PRO plan submitted by October 1, 2028, does not take effect until after the adjournment of the 2029 regular legislative session, in order to allow an opportunity for the 2029 Legislature to determine whether to amend PRO-related requirements, make other recycling policy changes including the establishment of a bottle deposit return program, or allow for the draft PRO plan to be implemented in full.
- Specifies that Ecology may only approve a draft PRO plan that meets all plan requirements, and prohibits Ecology from approving a plan that does not satisfy all plan criteria, including but not limited to reducing or eliminating disparities in the availability to socially vulnerable populations of covered services for covered materials.
- Modifies PRO education and outreach requirements and requires that education and outreach activities be culturally responsive, conceptually, linguistically, and culturally tailored, and use materials and methods that rely on evidence-based practices.
- Modifies the needs assessment to include additional requirements regarding materials collected at drop-off sites, assessment of current residential service collection contracts, and measurement of postconsumer recycled content that could be incorporated in certain plastics.
- Requires Ecology to contract for a one-time forecast analysis of the draft PRO plan to be submitted by January 2029 and for that analysis to be informed by stakeholders, and to consider whether a bottle deposit return program could be established as a component to the PRO plan.

- Requires the independent review to analyze the effects of the program on reuse rates.
- Exempts noncompostable film plastic used for raw meat from covered materials and authorizes a PRO or producer to request an exclusion for raw meat packaging.
- Requires Ecology to contract with an independent consultant to carry out two studies on a beverage container deposit return system. One study must examine possible models for redemption sites and another study regarding the potential program design for a bottle deposit return program.