

FIFTY FIRST DAY, MARCH 2, 2021

2021 REGULAR SESSION

FIFTY FIRST DAY

MORNING SESSION

Senate Chamber, Olympia
Tuesday, March 2, 2021

The Senate was called to order at 10:03 a.m. by the President of the Senate, Lt. Governor Heck presiding. The Secretary called the roll and announced to the President that all Senators were present.

The Washington State Patrol Honor Guard presented the Colors.

Miss Grace Smith and Miss Penelope Settles led the Senate in the Pledge of Allegiance.

The prayer was offered by Gen Kelsang Rinzin of the Ju Shita Kadampa Buddhist Center, Seattle.

MOTIONS

On motion of Senator Liias, the reading of the Journal of the previous day was dispensed with and it was approved.

On motion of Senator Liias, the Senate advanced to the third order of business.

MESSAGE FROM THE GOVERNOR

March 01, 2021

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I have the honor to advise you that on February 28, 2021, Governor Inslee approved the following Senate Bill entitled:

Engrossed Substitute Senate Bill No. 5272

Relating to temporarily waiving certain liquor and cannabis board annual licensing fees.

Sincerely,

/s/

Drew Shirk, Executive Director of Legislative Affairs

MOTION

On motion of Senator Liias, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING

SB 5469 by Senators Padden, Honeyford, and Wilson, L.

AN ACT Relating to declaring an amnesty for all civil penalties imposed on Washington residents and businesses for the violation of any activity or condition regulated under the emergency proclamations issued in direct response to the novel coronavirus COVID-19; adding a new section to chapter 43.06 RCW; creating a new section; and declaring an emergency.

Referred to Committee on State Government & Elections.

SB 5470 by Senators Rivers, Nguyen, and Wilson, L.

AN ACT Relating to prohibiting broadband internet access service providers from applying data caps during a state of emergency; amending RCW 19.385.020; and adding a new section to chapter 19.385 RCW.

Referred to Committee on Environment, Energy & Technology.

HB 1022 by Representatives MacEwen, Kloba, Peterson, Kirby and Schmick

AN ACT Relating to Washington state horse racing commission provisions; and amending RCW 67.16.100.

Referred to Committee on Labor, Commerce & Tribal Affairs.

HB 1023 by Representatives Steele, Tharinger, Callan and Young

AN ACT Relating to predesign requirements and thresholds; amending RCW 43.88.110, 43.82.035, and 43.88.0301; and creating a new section.

Referred to Committee on Ways & Means.

ESHB 1054 by House Committee on Public Safety (originally sponsored by J. Johnson, Entenman, Dolan, Ryu, Berry, Simmons, Bateman, Kloba, Lekanoff, Duerr, Fitzgibbon, Slatter, Wylie, Ramos, Berg, Tharinger, Ramel, Ortiz-Self, Senn, Peterson, Gregerson, Valdez, Callan, Hackney, Morgan, Chopp, Cody, Ormsby, Taylor, Frame, Santos, Macri, Davis, Pollet, Bergquist and Harris-Talley)

AN ACT Relating to establishing requirements for tactics and equipment used by peace officers; amending RCW 10.31.040; adding a new chapter to Title 10 RCW; and repealing RCW 43.101.226.

Referred to Committee on Law & Justice.

2SHB 1061 by House Committee on Appropriations (originally sponsored by Senn, Dent, Leavitt, Wicks, Slatter, Wylie, Simmons, Kloba, Ortiz-Self, Gregerson, Callan, Young, Morgan, Frame, Santos, Rule and Davis)

AN ACT Relating to youth eligible for developmental disability services who are expected to exit the child welfare system; amending RCW 74.13.341; adding a new section to chapter 74.13 RCW; adding a new section to chapter 71A.12 RCW; and creating new sections.

Referred to Committee on Health & Long Term Care.

ESHB 1078 by House Committee on State Government & Tribal Relations (originally sponsored by Simmons, Young, Dolan, Berry, Fitzgibbon, J. Johnson, Wicks, Chopp, Wylie, Bateman, Ramos, Berg, Shewmake, Tharinger, Ramel, Ortiz-Self, Peterson, Gregerson, Walen, Goodman, Senn, Sells, Ryu, Valdez, Callan, Hackney, Morgan, Ormsby, Pollet, Riccelli, Taylor, Springer, Stonier, Lekanoff, Frame, Santos, Jacobsen, Macri, Davis, Bergquist and Harris-Talley)

AN ACT Relating to restoring voter eligibility for all persons convicted of a felony offense who are not in total confinement under the jurisdiction of the department of corrections; amending RCW 29A.08.520, 29A.08.230, 29A.40.091, 10.64.140, 2.36.010, and 72.09.275; and adding a new section to chapter 29A.04 RCW.

Referred to Committee on State Government & Elections.

E3SHB 1091 by House Committee on Transportation (originally sponsored by Fitzgibbon, Slatter, Berry, Dolan, Bateman, Ramos, Simmons, Ramel, Senn, Peterson, Duerr, Ryu, Valdez, Callan, Kloba, Chopp, Ormsby, Frame, Macri, Pollet, Goodman and Bergquist)

AN ACT Relating to reducing greenhouse gas emissions by reducing the carbon intensity of transportation fuel; amending RCW 46.17.365, 46.25.100, 46.20.202, 46.25.052, 46.25.060, 70A.15.3150, 70A.15.3160, 19.112.110, and 19.112.120; adding a new section to chapter 82.04 RCW; adding a new chapter to Title 70A RCW; creating a new section; prescribing penalties; and providing an expiration date.

Referred to Committee on Environment, Energy & Technology.

E2SHB 1160 by House Committee on Appropriations (originally sponsored by Cody, Macri and Pollet)

AN ACT Relating to health provider contracts; adding new sections to chapter 48.43 RCW; and creating a new section.

Referred to Committee on Health & Long Term Care.

SHB 1166 by House Committee on Appropriations (originally sponsored by Leavitt, Caldier, Sutherland, Chopp, Lekanoff, Davis, Shewmake, Pollet, Ramos, Callan, Rule, Gregerson, Bateman, Harris-Talley and J. Johnson)

AN ACT Relating to expanding access to the homeless and foster care college students pilot program; amending RCW 28B.50.916 and 28B.77.850; and providing expiration dates.

Referred to Committee on Higher Education & Workforce Development.

ESHB 1184 by House Committee on Local Government (originally sponsored by Duerr, Ramel, Dolan and Harris-Talley)

AN ACT Relating to risk-based water quality standards for on-site nonpotable water systems; and adding a new section to chapter 90.46 RCW.

Referred to Committee on Housing & Local Government.

SHB 1208 by House Committee on Education (originally sponsored by Santos, Steele, Lekanoff, Paul, Callan, Ortiz-Self, Bergquist and Harris-Talley)

AN ACT Relating to modifying the learning assistance program to enable school districts to focus on identifying and addressing student academic deficits in basic skills resulting from or exacerbated by the COVID-19 pandemic by granting greater local control over, accountability for, and flexibility with program funds, and to authorize continued flexible use of program funds through the framework of the Washington integrated student supports protocol; amending

RCW 28A.300.139, 28A.165.005, 28A.165.015, 28A.165.065, 28A.165.100, 28A.300.130, 28A.305.130, 28A.320.190, and 28A.710.280; adding new sections to chapter 28A.165 RCW; creating new sections; repealing RCW 28A.165.035; providing a contingent effective date; providing a contingent expiration date; and declaring an emergency.

Referred to Committee on Early Learning & K-12 Education.

SHB 1225 by House Committee on Health Care & Wellness (originally sponsored by Stonier, Bateman, Lekanoff, J. Johnson, Davis, Cody, Santos, Thai, Ortiz-Self, Ormsby, Valdez, Riccelli and Tharinger)

AN ACT Relating to supporting school-based health centers; adding a new section to chapter 43.70 RCW; and creating a new section.

Referred to Committee on Health & Long Term Care.

EHB 1271 by Representatives Orwall, Goehner, Goodman, Thai, Fey, Pollet and Harris-Talley

AN ACT Relating to ensuring continuity of operations in the offices of county elected officials during the current COVID-19 pandemic and future public health crises; amending RCW 2.32.050, 84.41.041, 38.52.040, 70.54.430, 43.09.230, 65.04.140, 46.20.118, 6.21.030, 6.21.040, 6.21.050, 6.21.090, 6.21.100, and 84.56.020; reenacting and amending RCW 6.01.060; creating a new section; and providing an effective date.

Referred to Committee on State Government & Elections.

E2SHB 1295 by House Committee on Appropriations (originally sponsored by Callan, Eslick, Ramel, Leavitt, Simmons, Springer, Fitzgibbon, Dolan, Bateman, Shewmake, J. Johnson, Senn, Sutherland, Walen, Peterson, Davis, Goodman, Hackney, Kloba, Fey, Ramos, Frame, Ryu, Macri, Bergquist, Pollet and Stonier)

AN ACT Relating to the provision of public education to youth in or released from institutional education facilities; amending RCW 28A.150.200, 43.41.400, and 13.04.145; reenacting and amending RCW 28A.320.192; adding new sections to chapter 28A.190 RCW; adding a new section to chapter 28A.300 RCW; creating new sections; repealing RCW 28A.190.015 and 28A.190.020; and providing expiration dates.

Referred to Committee on Early Learning & K-12 Education.

2SHB 1325 by House Committee on Appropriations (originally sponsored by Callan, Eslick, Leavitt, Fitzgibbon, Thai, Duerr, Senn, Ortiz-Self, Davis, Bergquist, Ramos, Lekanoff, Pollet, Dent and Goodman)

AN ACT Relating to implementing policies related to children and youth behavioral health as reviewed and recommended by the children and youth behavioral health work group; amending RCW 71.24.061 and 74.09.520; and creating a new section.

Referred to Committee on Health & Long Term Care.

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ESHB 1329 by House Committee on Local Government (originally sponsored by Wicks, Pollet, Taylor, Ryu, Wylie, Shewmake, Bateman, Lovick, Fey, Morgan, Lekanoff, Harris-Talley and Peterson)

AN ACT Relating to public meeting accessibility and participation; amending RCW 42.30.010, 42.30.030, 42.30.110, and 42.30.900; adding new sections to chapter 42.30 RCW; and creating new sections.

Referred to Committee on State Government & Elections.

SHB 1348 by House Committee on Health Care & Wellness (originally sponsored by Davis, Schmick, Frame, Leavitt, Simmons, Valdez, Fitzgibbon, Orwall, Ortiz-Self, Slatter, Caldier, Stonier, Peterson, Ramel, Goodman, Taylor, Sutherland, Ryu, Hackney, Lovick, Barkis, Pollet, Macri, Callan, Santos, Ormsby, Tharinger, Riccelli, Lekanoff, Harris-Talley and Harris)

AN ACT Relating to the provision of medical assistance to incarcerated persons; amending RCW 74.09.670; and creating new sections.

Referred to Committee on Human Services, Reentry & Rehabilitation.

HB 1393 by Representatives Shewmake, Ramel, Lekanoff and Duerr

AN ACT Relating to delaying certain implementation dates for the photovoltaic module stewardship and takeback program; and reenacting and amending RCW 70A.510.010.

Referred to Committee on Environment, Energy & Technology.

HB 1430 by Representatives Kloba and Klicker

AN ACT Relating to the duration of state upland leases for lands managed by the department of natural resources; and amending RCW 79.13.060.

Referred to Committee on Agriculture, Water, Natural Resources & Parks.

SHB 1502 by House Committee on Transportation (originally sponsored by Wylie, Griffey, Ramel, Paul, Lekanoff, Berry, Ortiz-Self, Hackney, Harris-Talley and Pollet)

AN ACT Relating to the procurement and design of electric ferries by counties; and adding new sections to chapter 36.32 RCW.

Referred to Committee on Transportation.

SHB 1510 by House Committee on Transportation (originally sponsored by Hackney, Fey, Sutherland, Eslick and Riccelli)

AN ACT Relating to establishing an exemption from certain highway use requirements by nonemergency medical transportation vehicles; amending RCW 46.61.165 and 47.52.025; adding a new section to chapter 46.16A RCW; and providing an effective date.

Referred to Committee on Transportation.

HB 1525 by Representatives Walen, Hansen, Simmons and Slatter

AN ACT Relating to enforcement of judgments; amending RCW 6.15.010 and 6.27.100; creating a new section; and providing an expiration date.

Referred to Committee on Law & Justice.

MOTIONS

On motion of Senator Liias, all measures listed on the Introduction and First Reading report were referred to the committees as designated.

On motion of Senator Liias, the Senate advanced to the sixth order of business.

SECOND READING

SENATE BILL NO. 5406, by Senators Hawkins, Mullet, Brown, Dozier, Fortunato, Hobbs, Honeyford, Hunt, Rolfes, Schoesler, Short, Stanford, Warnick, and Wilson, J.

Providing compensation for tow truck operators for keeping the public roadways clear.

MOTIONS

On motion of Senator Hawkins, Substitute Senate Bill No. 5406 was substituted for Senate Bill No. 5406 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Hawkins, the rules were suspended, Substitute Senate Bill No. 5406 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Hawkins, Hobbs, Short and Wilson, J. spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5406.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5406 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Dozier, Fortunato, Frockt, Gildon, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Voting nay: Senator Hasegawa

Excused: Senator Ericksen

SUBSTITUTE SENATE BILL NO. 5406, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5401, by Senators Nguyen, Rivers, Cleveland, Das, Dhingra, Gildon, Hasegawa, Holy, Keiser, Kuderer, Liias, Lovelett, Mullet, Saldaña, Stanford, Wellman,

and Wilson, C.

Authorizing community and technical colleges to offer bachelor degrees in computer science.

MOTIONS

On motion of Senator Nguyen, Substitute Senate Bill No. 5401 was substituted for Senate Bill No. 5401 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Nguyen, the rules were suspended, Substitute Senate Bill No. 5401 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Nguyen, Holy and Braun spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5401.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5401 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Dozier, Fortunato, Frockt, Gildon, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Excused: Senator Ericksen

SUBSTITUTE SENATE BILL NO. 5401, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5254, by Senators Salomon, Darneille, Frockt, Hasegawa, Keiser, Saldaña, Stanford, and Wilson, C.

Concerning the use of protective devices and equipment during a public health emergency.

MOTIONS

On motion of Senator Salomon, Substitute Senate Bill No. 5254 was substituted for Senate Bill No. 5254 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Salomon, the rules were suspended, Substitute Senate Bill No. 5254 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Salomon spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5254.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5254 and the bill passed the Senate by the

following vote: Yeas, 40; Nays, 7; Absent, 1; Excused, 1.

Voting yea: Senators Billig, Braun, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Dozier, Frockt, Gildon, Hasegawa, Hawkins, Hobbs, Holy, Hunt, Keiser, King, Kuderer, Liias, Lovelett, Mullet, Muzzall, Nguyen, Nobles, Pedersen, Randall, Rivers, Robinson, Rolfes, Saldaña, Salomon, Short, Stanford, Van De Wege, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Voting nay: Senators Brown, Fortunato, Honeyford, McCune, Padden, Schoesler and Wagoner

Absent: Senator Sheldon

Excused: Senator Ericksen

SUBSTITUTE SENATE BILL NO. 5254, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5408, by Senators Stanford, Das, Dhingra, Hasegawa, Kuderer, Lovelett, Nguyen, Randall, Robinson, Rolfes, Saldaña and Wellman

Concerning the homestead exemption.

MOTION

On motion of Senator Stanford, Substitute Senate Bill No. 5408 was substituted for Senate Bill No. 5408 and the substitute bill was placed on the second reading and read the second time.

MOTION

On motion of Senator Liias, and without objection, Senate Emergency Rule K was suspended to allow consideration of floor amendment no. 340.

WITHDRAWAL OF AMENDMENTS

On motion of Senator Padden and without objection, floor amendment no. 258 by Senator Padden on page 1, line 8 and floor amendment no. 257 by Senator Padden on page 2, line 31 and striking floor amendment no. 255 to Substitute Senate Bill No. 5408 were withdrawn.

MOTION

Senator Padden moved that the following floor amendment no. 256 by Senator Padden be adopted:

On page 1, line 9, after "(2018)" strike "," and insert "and"

On page 1, beginning on line 10, after "(2018)" strike all material through "(2015)" on line 12

Beginning on page 3, line 33, strike all of section 5

Renumber the remaining section consecutively and correct any internal references accordingly.

On page 1, line 2 of the title, after "6.13.070," strike "6.13.090,"

Senators Padden and Pedersen spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 256 by Senator Padden on page 1, line 9 to Substitute Senate Bill No. 5408.

The motion by Senator Padden carried and floor amendment no. 256 was adopted by voice vote.

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MOTION

Senator Padden moved that the following floor amendment no. 340 by Senator Padden be adopted:

On page 3, line 4, after "court" strike "may" and insert "shall"

On page 3, beginning on line 5, after "or" strike all material through "licensing" on line 7 and insert ", if the Runstad department no longer provides the data, a successor entity designated by the office of financial management"

Senators Padden and Pedersen spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 340 by Senator Padden on page 3, line 4 to Substitute Senate Bill No. 5408.

The motion by Senator Padden carried and floor amendment no. 340 was adopted by voice vote.

MOTION

On motion of Senator Stanford, the rules were suspended, Engrossed Substitute Senate Bill No. 5408 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Stanford and Padden spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5408.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5408 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Dozier, Fortunato, Frockt, Gildon, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Rolfes, Saldaña, Salomon, Sheldon, Short, Stanford, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C. and Wilson, L.

Voting nay: Senators Schoesler and Wilson, J.

Excused: Senator Ericksen

ENGROSSED SUBSTITUTE SENATE BILL NO. 5408, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5385, by Senators Keiser, Saldaña and Nguyen

Concerning the size of the airport a municipality must control or operate for that municipality to enact minimum labor standards for employees at the airport.

The measure was read the second time.

MOTION

On motion of Senator Keiser, the rules were suspended, Senate Bill No. 5385 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Keiser and King spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5385.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5385 and the bill passed the Senate by the following vote: Yeas, 36; Nays, 13; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Braun, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Gildon, Hasegawa, Hawkins, Hobbs, Holy, Hunt, Keiser, King, Kuderer, Liias, Lovelett, Mullet, Nguyen, Nobles, Pedersen, Randall, Rivers, Robinson, Rolfes, Saldaña, Salomon, Sheldon, Stanford, Van De Wege, Warnick, Wellman and Wilson, C.

Voting nay: Senators Brown, Dozier, Ericksen, Fortunato, Honeyford, McCune, Muzzall, Padden, Schoesler, Short, Wagoner, Wilson, J. and Wilson, L.

SENATE BILL NO. 5385, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5063, by Senators Honeyford, Salomon, Van De Wege and Warnick

Concerning the expiration date of the invasive species council.

The measure was read the second time.

MOTION

On motion of Senator Honeyford, the rules were suspended, Senate Bill No. 5063 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Honeyford, Van De Wege and Hawkins spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5063.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5063 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Dozier, Ericksen, Fortunato, Frockt, Gildon, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

SENATE BILL NO. 5063, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5133, by Senators Conway, Hasegawa, Keiser, Saldaña, and Wilson, C.

Concerning the definition of confidential employee for the purposes of state collective bargaining.

The measure was read the second time.

MOTION

On motion of Senator Conway, the rules were suspended, Senate Bill No. 5133 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Conway and King spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5133.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5133 and the bill passed the Senate by the following vote: Yeas, 34; Nays, 15; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Gildon, Hasegawa, Hawkins, Hobbs, Holy, Hunt, Keiser, King, Kuderer, Liias, Lovelett, Mullet, Nguyen, Nobles, Pedersen, Randall, Robinson, Rolfes, Saldaña, Salomon, Sheldon, Stanford, Van De Wege, Wellman, Wilson, C. and Wilson, J.

Voting nay: Senators Braun, Brown, Dozier, Ericksen, Fortunato, Honeyford, McCune, Muzzall, Padden, Rivers, Schoesler, Short, Wagoner, Warnick and Wilson, L.

SENATE BILL NO. 5133, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE JOINT MEMORIAL NO. 8004, by Senators Hasegawa and Saldaña

Addressing "de-risking" by financial institutions.

The measure was read the second time.

MOTION

On motion of Senator Hasegawa, the rules were suspended, Senate Joint Memorial No. 8004 was advanced to third reading, the second reading considered the third and the memorial was placed on final passage.

Senators Hasegawa and Fortunato spoke in favor of passage of the memorial.

The President declared the question before the Senate to be the final passage of Senate Joint Memorial No. 8004.

ROLL CALL

The Secretary called the roll on the final passage of Senate Joint

Memorial No. 8004 and the memorial passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Dozier, Ericksen, Fortunato, Frockt, Gildon, Hasegawa, Hawkins, Hobbs, Holy, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Voting nay: Senator Honeyford

SENATE JOINT MEMORIAL NO. 8004, having received the constitutional majority, was declared passed. There being no objection, the title of the memorial was ordered to stand as the title of the act.

MOTION

At 11:03 a.m., on motion of Senator Liias, the Senate was declared to be at ease subject to the call of the President.

 AFTERNOON SESSION

The Senate was called to order at 12:20 p.m. by President Heck.

SECOND READING

SENATE BILL NO. 5241, by Senators Dhingra, Nguyen, Darneille, Das, Hasegawa, Hunt, Keiser, Liias, Nobles, Saldaña, Stanford, and Wilson, C.

Promoting economic inclusion.

MOTIONS

On motion of Senator Dhingra, Second Substitute Senate Bill No. 5241 was substituted for Senate Bill No. 5241 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Dhingra, the rules were suspended, Second Substitute Senate Bill No. 5241 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Dhingra, Gildon and Wagoner spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5241.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5241 and the bill passed the Senate by the following vote: Yeas, 45; Nays, 3; Absent, 1; Excused, 0.

Voting yea: Senators Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Dozier, Fortunato, Frockt, Gildon, Hasegawa, Hawkins, Hobbs, Holy, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCune, Mullet, Muzzall, Nguyen, Nobles, Pedersen, Randall, Rivers, Robinson, Rolfes, Saldaña, Salomon, Sheldon, Short, Stanford, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Voting nay: Senators Honeyford, Padden and Schoesler
Absent: Senator Ericksen

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SECOND SUBSTITUTE SENATE BILL NO. 5241, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

The motion by Senator Padden did not carry and floor amendment no. 191 was not adopted by voice vote.

SECOND READING

SENATE BILL NO. 5022, by Senators Das, Rolfes, Carlyle, Dhingra, Keiser, Kuderer, Lias, Lovelett, Nobles, Nguyen, Pedersen, Saldaña, Salomon, Stanford, Wellman, and Wilson, C.

WITHDRAWAL OF AMENDMENT

On motion of Senator Fortunato and without objection, floor amendment no. 192 by Senator Fortunato on page 1, line 10 to Second Substitute Senate Bill No. 5022 was withdrawn.

Concerning the management of certain materials to support recycling and waste and litter reduction.

MOTION

Senator Braun moved that the following floor amendment no. 193 by Senator Rivers be adopted:

MOTION

On motion of Senator Das, Second Substitute Senate Bill No. 5022 was substituted for Senate Bill No. 5022 and the substitute bill was placed on the second reading and read the second time.

On page 1, after line 20, insert the following:

"(3) The legislature intends that by January 1, 2030, all plastic packaging sold in the state of Washington be either recyclable or compostable."

Revised for 2nd Substitute: Managing solid waste through prohibitions on expanded polystyrene, providing for food serviceware upon customer request, and requiring recycled content in plastic beverage containers.

On page 2, line 21, after "(4)" insert "'Brand" means a name, symbol, word, or mark that identifies a product, rather than its components, and attributes a covered product that is packaging utilized by the product to the brand holder of the product as the producer.

MOTION

Senator Padden moved that the following floor amendment no. 191 by Senator Padden be adopted:

(5) "Brand holder" means a person who owns or licenses a brand or who otherwise has rights to market a product under the brand, whether or not the brand trademark is registered.

On page 1, line 10, after "containers" strike "," and insert "and"
On page 1, beginning on line 10, after "packaging" strike ", and standards for customer opt-in for food service packaging and accessories"

(6) "Compostable" means a covered product that is capable of undergoing aerobic biological decomposition in a system meeting the requirements of chapters 70A.205 and 70A.455 RCW, that results in the material broken down primarily into carbon dioxide, water, inorganic compounds, and biomass.

On page 1, line 15, after "containers" strike "," and insert "and"
On page 1, beginning on line 16, after "products" strike ", and establishing optional serviceware requirements"

(7)"

ReNUMBER the remaining subsections consecutively and correct any internal references accordingly.

On page 2, beginning on line 21, strike all of subsection (4)
ReNUMBER the remaining subsections consecutively and correct any internal references accordingly.

On page 2, line 26, after "designates milk" insert ", as defined in RCW 15.36.012,"

Beginning on page 2, line 36, strike all of subsection (8)
ReNUMBER the remaining subsections consecutively and correct any internal references accordingly.

On page 3, line 10, after "(10)" insert "'Infant formula" means any liquid food described or sold as an alternative for human milk for the feeding of infants.

On page 4, beginning on line 1, strike all of subsection (13)
Beginning on page 10, line 17, strike all of section 7
ReNUMBER the remaining sections consecutively and correct any internal references accordingly.

(11)(a) "Medical food" means a food or beverage that is formulated to be consumed, or administered enterally under the supervision of a physician, and that is intended for specific dietary management of diseases or health conditions for which distinctive nutritional requirements, based on recognized scientific principles, are established by medical evaluation.

On page 11, beginning on line 33, after "under" strike "sections 6 and 7" and insert "section 6"

(b) "Medical food" includes a specially formulated and processed product, for the partial or exclusive feeding of a patient by means of oral intake or enteral feeding by tube, and is not a naturally occurring foodstuff used in its natural state.

On page 11, beginning on line 37, after "act" strike "and optional serviceware under section 7 of this act"

(c) "Medical food" includes any product that meets the definition of "medical food" in the federal food, drug, and cosmetic act, 21 U.S.C. Sec. 360ee(b)(3).

On page 12, line 1, after "implement" strike "sections 6 and 7" and insert "section 6"

(12)"

ReNUMBER the remaining subsections consecutively and correct any internal references accordingly.

On page 13, line 23, after "70A.515.060," strike "sections 6 and 7" and insert "section 6"

On page 3, line 25, after "(11)" insert "(a) "Plastic packaging" means the portion of packaging made from plastic, whether alone or in combination with another material, including packaging that bonds plastic with other materials together, such as metal lids bonded to plastic bottles, blister packs combining plastic and paperboard, but excluding plastic-coated paper packaging and aseptic containers, and is: (i) Used to protect, contain, or transport a commodity or product at any point from manufacture to its place of use; or (ii) attached to a commodity or product or its container for the purpose of marketing or communicating information about

On page 15, line 16, after "70A.20.050," strike "sections 6 and 7" and insert "section 6"

On page 1, beginning on line 2 of the title, after "polystyrene" strike ", providing for food serviceware upon customer request,"

Senator Padden spoke in favor of adoption of the amendment.
Senators Dhingra and Rolfes spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 191 by Senator Padden on page 1, line 10 to Second Substitute Senate Bill No. 5022.

the commodity or product, and which is capable of being removed and discarded when the product is put in use without adverse effect on the quality or performance of the product.

(b) "Plastic packaging" includes packaging that is filled or unfilled and packaging that is intended to be sold as a product to customers.

(12)(a)"

Renumber the remaining subsections consecutively and correct any internal references accordingly.

On page 3, after line 30, insert the following:

"(b) "Postconsumer recycled content" also means the percentage of recycled plastic contained in or attributed to the plastic packaging that is made of recycled materials derived specifically from postconsumer plastic sources and processed using either mechanical or advanced recycling technologies including, but not limited to, depolymerization, gasification, pyrolysis, or solvolysis.

(c) For the purposes of this subsection, "attributed" means a methodology by which a producer using mass balance allocates an equivalent of its input feedstocks that were derived from advanced recycling processes across one or more of its products manufactured using such feedstocks.

(13)(a) "Producer" means one of the following, in descending order:

(i) The person who uses the plastic packaging under such person's own name or brand and who sells or offers for sale the covered material or product in the state;

(ii) The person who imports the plastic packaging as the owner or licensee of a trademark or brand under which the covered material or product is sold or distributed in the state;

(iii) The person that offers for sale, sells, or distributes the plastic packaging or product in the state; or

(iv) A person who elects to assume the responsibility and register in lieu of a producer as defined under (a)(i) through (iii) of this subsection.

(b) The statutory responsibility of a person higher in the hierarchy shall relieve the responsibility of a person lower in the hierarchy from the compliance requirements of this chapter.

(c) "Producer" does not include:

(i) Government agencies, municipalities, or other political subdivisions of the state;

(ii) Registered 501(c)(3) charitable organizations and 501(c)(4) social welfare organizations;

(iii) A health care facility or a health care provider as defined in RCW 70.02.010; or

(iv) A private label distributor or retailer that sells the product under the retailer's store label if the manufacturer of the product is identified on the package or for which a manufacturer of the product has undertaken responsibility under this chapter."

Renumber the remaining subsections consecutively and correct any internal references accordingly.

On page 4, after line 6, insert the following:

"NEW SECTION. Sec. 3. (1) Each year, a producer of plastic packaging must meet the following minimum postconsumer recycled content on average across a producer's entire product line subject to compliance requirements under this section for the total amount of plastic packaging sold, offered for sale, or distributed in Washington effective:

(a) For rigid packaging comprised primarily of resins numbers 3, 4, 6, and 7 as identified in RCW 70A.220.020:

(i) July 1, 2023, through December 31, 2030: No less than 15 percent postconsumer recycled plastic;

(ii) January 1, 2031, through December 31, 2035: No less than 25 percent postconsumer recycled plastic;

(iii) On and after January 1, 2036: No less than 50 percent postconsumer recycled plastic; and

(b) For food service plastic packaging comprised primarily of resins numbers 3, 4, 6, and 7 as identified in RCW 70A.220.020:

(i) July 1, 2023, through December 31, 2028: No less than five percent postconsumer recycled plastic;

(ii) January 1, 2029, through December 31, 2035: No less than 20 percent postconsumer recycled plastic;

(iii) On and after January 1, 2036: No less than 30 percent postconsumer recycled plastic.

(c) "Food service plastic packaging" for purposes of this section, means "food contact substance" as defined in section 409(h)(6) of the federal food, drug, and cosmetic act effective on January 1, 2022, as "any substance intended for use as a component of materials used in manufacturing, packing, packaging, transporting, or holding food if such use is not intended to have any technical effect in such food."

(i) "Food service plastic packaging" also means a plastic product used for serving or transporting prepared food including, but not limited to, plates, cups, bowls, trays, and hinged or lidded containers. "Food service plastic packaging" does not include beverage or bottle containers or single-use disposable items, such as straws, cup lids, plastic bags, and utensils, or single-use disposable packaging for unprepared foods.

(ii) "Prepared food" means a food or beverage prepared for consumption on or off a food service facility's premises, using any cooking or food preparation technique. "Prepared food" does not include prepackaged, sealed food that is mass produced by a third party off the premises of the food service facility.

(2)(a) Beginning in 2024, and every other year thereafter, or at the petition of a producer or the plastic packaging industry but not more than annually, the department shall consider whether the minimum postconsumer recycled content requirements established under subsection (1) of this section should be reduced. The department must consider a petition from the plastic packaging industry within 60 days of receipt and must issue a written response. A denial in part or whole of the petition must be accompanied by a written explanation and findings to each of the petition's claims. The department may consider all petitions received as part of the same agency action or proceeding.

(b) If the department determines that a minimum postconsumer recycled content requirement should be adjusted, the adjusted rate must be in effect until a new determination is made or upon the expiration of the minimum postconsumer recycled content requirement's effective period, whichever occurs first. The department may not adjust the minimum postconsumer recycled content requirements above the applicable minimum postconsumer recycled content percentage for the applicable compliance period, as established in subsection (1) of this section. The department may not adjust the minimum postconsumer recycled content requirements below the lowest applicable material compliance level set in subsection (1) of this section. In making a determination to adjust the minimum postconsumer recycled content requirements, the department must at least consider the following:

(i) Changes in market conditions, including supply and demand for postconsumer recycled plastics, collection rates, and bale availability;

(ii) Recycling rates;

(iii) The availability of recycled plastic suitable to meet the minimum postconsumer recycled content requirements;

(iv) The capacity of recycling or processing infrastructure;

(v) The progress made by plastic packaging manufacturers in meeting the requirements of this section; and

(vi) The carbon footprint of the recycled resin.

(3) A producer, the plastic packaging industry, or a plastic packaging manufacturer may appeal adjustments to the requirement for minimum postconsumer recycled content as

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determined under subsections (1) and (2) of this section to the pollution control hearings board within 30 days of the department's determination.

(4) A producer that does not meet the minimum postconsumer recycled content requirements established in subsection (1) of this section is subject to a fee established in section 5 of this act.

(5) The department may grant a reduction in fees to a producer of plastic packaging. In determining whether to grant the reduction, the department shall consider, at a minimum, all of the following factors:

- (a) Anomalous market conditions;
- (b) Disruption in, or lack of supply of, recycled plastics;
- (c) Other factors that have prevented a producer from meeting the requirements; and
- (d) Other factors that have prevented a producer from meeting the requirement including, but not limited to, state or federal laws, rules, or regulations.

(6)(a) In order to receive a reduction of the fee, a producer shall submit to the department a corrective action plan detailing the reasons why the producer will fail to meet or has failed to meet the minimum postconsumer recycled content standard and the steps the producer will take to comply with the minimum postconsumer recycled content standard within the next reporting year. The department may approve the corrective action plan and must reduce fees on a producer once it approves the corrective action plan and the producer implements the plan.

(b) The department must provide a written explanation for a decision to approve or deny a corrective action plan, including:

- (i) Factors or standards used by the department in reviewing a corrective action plan;
- (ii) An explanation of how the department applied standards or factors under (b)(i) of this subsection to the corrective action plan;
- (iii) An explanation of actions a producer can take in a future corrective action plan to reduce fees or other compliance requirements; and
- (iv) An explanation of the methodology used by the department to determine the fee.

(c) The department shall provide technical assistance and an opportunity for a plastic packaging producer to update a corrective action plan before issuing fees.

(d) Fees accrue from the point of noncompliance with the minimum postconsumer recycled content standard if the department disapproves the corrective action plan or if the producer fails to implement the plan.

NEW SECTION. Sec. 4. (1)(a) By March 1, 2022, and annually thereafter, a producer must report to the department, in pounds and by resin type, the amount of virgin plastic and postconsumer recycled plastic used for plastic packaging subject to postconsumer recycled content requirements under section 3 of this act that is sold, offered for sale, or distributed in Washington state in the previous calendar year.

(b) The department must post aggregated information for all producers reported under this subsection on its website.

(c) A producer may submit national data allocated on a per capita basis for Washington to approximate the information required in this subsection if the producer demonstrates to the department that state level data is not available or feasible to generate.

(2) The department may: (a) Conduct audits and investigations for the purpose of ensuring compliance with this section based on the information reported under subsection (1) of this section; and (b) adopt rules to implement, administer, and enforce the requirements of this chapter.

(3) The department shall keep confidential all business trade secrets and proprietary information about manufacturing

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processes and equipment that the department gathers or becomes aware of through the course of conducting audits or investigations pursuant to this chapter.

NEW SECTION. Sec. 5. (1) Beginning July 1, 2023, a producer that does not meet the minimum postconsumer recycled content requirements across a producer's entire product line for plastic packaging sold, offered for sale, or distributed in Washington as established under section 3 of this act, based upon the amount in pounds and in the aggregate, is subject to an annual fee.

(2) Beginning July 1, 2023, the department may assess fees for violations.

(3)(a)(i) The annual administrative fee amount assessed to a producer must equal the product of both of the following: The total pounds of plastic used multiplied by the relevant minimum postconsumer recycled plastic target percentage, less the pounds of total plastic multiplied by the percent of postconsumer recycled plastic used; multiplied by 20 cents.

(ii) Example: [(Total pounds of plastic used x minimum postconsumer recycled plastic target percentage) – (Total pounds of plastic used x postconsumer recycled plastic percentage used)] x 20 cents.

(iii) The department may structure fees to result in lower fees for producers that achieve partial compliance or as prescribed under section 3 (5) or (6) of this act.

(b) The fee structure implemented must be estimated to raise no less than \$5,000,000 per biennium and no more than \$10,000,000 per biennium.

(c) If the department estimates that fee revenue will fall below the range established in (b) of this subsection, the department must implement a base fee of 20 cents per pound and publish an estimate of revenue expected to be raised by the fee in the report required by subsection (4) of this section. The department may lower fees for individual producers under section 3 (5) or (6) of this act.

(4) Beginning January 1, 2023, the department must publish an annual report containing an annual estimate of the revenue estimated to be raised by the fee, the amounts and quantities of plastic packaging subject to the fee, and the number of producers currently and expected to be in compliance with section 3 of this act.

(5) A producer must:

- (a) Pay to the department assessed fees in quarterly installments; or
- (b) Arrange an alternative payment schedule subject to the approval of the department.

(6) A producer may appeal fees assessed under this section to the pollution control hearings board within 30 days of assessment.

(7) A producer shall pay the fees assessed pursuant to this section, as applicable, based on the information reported to the department as required under section 4 of this act in the form and manner prescribed by the department.

(8) The department shall not spend more than 10 percent of the collected fees on administration or enforcement of this chapter.

NEW SECTION. Sec. 6. (1) The recycling improvement account is created in the state treasury. All receipts from the fee imposed on plastic packaging in section 5 of this act must be deposited in the account. However, until June 30, 2024, \$1,000,000 from the fee imposed on plastic packaging in section 5 of this act must be deposited in the waste reduction, recycling, and litter control account created in RCW 70A.200.140, with the remainder deposited in the recycling improvement account. Moneys in the account may be spent only after appropriation.

(2)(a) One hundred percent of the expenditures from the account must be used for distributions by the department to cities

and counties that are eligible for financial assistance under RCW 70A.205.080 for the purposes specified in (b) of this subsection, and for the department's administration of this chapter.

(b)(i) Cities and counties must use all funds received under this section for the development and implementation of:

(A) Actions or investments to improve recycling infrastructure and the recyclability of plastic packaging through curbside recycling programs;

(B) Depots or collection points for plastics not effectively collected or processed through curbside programs; and

(C) Solid waste planning, management, regulation, enforcement, technical assistance, and public education required under chapter 70A.205 RCW.

(ii) In adopting rules governing the distribution of funds under this subsection, the department may incorporate the fund prioritization criteria and process adopted by the department under RCW 70A.205.080. The rules adopted by the department must distribute funds to counties based on the population of the county, after distributing a set minimum amount to each county.

(iii) The department shall develop rules governing the distribution of funds under this section in conjunction with an advisory committee convened by the department that includes five members appointed by the Washington association of county solid waste managers and five members appointed by the Washington state association of local public health officials. These rules must include a requirement that local governments annually report to the department on how the funds are used to improve plastics recycling infrastructure and the recyclability of plastic packaging. These reports must be posted on the department's public website.

NEW SECTION. Sec. 7. (1) Until January 1, 2032, the department shall exempt the following plastic packaging from the provisions of sections 3 through 5 and 12 through 14 of this act:

(a) Plastic packaging and food serviceware provided for the purpose of serving prepared food: (i) Via a drive through; (ii) in a packaged form for takeout or takeaway; or (iii) from food trucks, stands, delis, or kiosks that may or may not provide shelter or seating for consumers;

(b) Plastic bags subject to postconsumer recycled content requirements under chapter 70A.530 RCW;

(c) Compostable packaging determined by the department to meet the requirements of chapter 70A.455 RCW;

(d) Any material that is used in the packaging of a product that is regulated as a drug, medical device, or dietary supplement by the United States food and drug administration under the federal food, drug, and cosmetic act (21 U.S.C. Sec. 321 et seq.) as well as drugs used for veterinary medicine, including parasiticide products for animals. This includes plastic packaging that contains:

(i) Dairy milk, medical food, or infant formula;

(ii) Wine, or wine from which alcohol has been removed, in whole or in part, whether or not sparkling or carbonated;

(iii) Distilled spirits;

(iv) One hundred percent fruit juice in containers that are 46 ounces or more in volume; and

(v) One hundred percent vegetable juice in containers of 16 ounces or more in volume;

(e) Plastic packaging containers that contain products regulated by the federal insecticide, fungicide, and rodenticide act (7 U.S.C. Sec. 136 et seq.);

(f) Plastic packaging containers that are manufactured for use in the shipment of hazardous materials and are prohibited from being manufactured with used material by federal packaging material specifications and testing standards set forth in 49 C.F.R. Secs. 178.509 and 178.522, or are subject to testing standards set forth in 49 C.F.R. Secs. 178.600 through 178.609, inclusive, or to

which recommendations of the United Nations on the transport of dangerous goods are applicable;

(g) Architectural paint defined in and included in a stewardship plan under chapter 70A.515 RCW;

(h) Products regulated under 49 C.F.R. Sec. 178.33b;

(i) Three and five gallon water cooler containers that are part of a water cooler system;

(j) Packaging not intended to be discarded but instead used for the long-term or permanent storage or protection of a durable product and that is intended to transport, protect, or store the product on an ongoing basis, such as an included reusable carrying case for the product; and

(k) Blister packs comprised primarily of paper but bonded with foil and plastic, such as pharmaceutical blister packaging for pills.

(2) After the adoption of initial rules to implement this chapter, the department must periodically reengage the stakeholder work group under this section to review the exemptions, exceptions, or alternative compliance requirements adopted by rule under this section.

(3) By January 1, 2030, the department shall convene a stakeholder work group that includes representation from all relevant stakeholders to reevaluate exemptions included in this section. The work group shall make recommendations and the department may adopt exemptions by rule.

NEW SECTION. Sec. 8. (1) A city, town, county, or municipal corporation may not implement local recycled content requirements for plastic packaging that are inconsistent with minimum postconsumer recycled content as required under section 3 of this act.

(2) Local laws and ordinances that are inconsistent with, more restrictive than, or exceed the requirements of this chapter, may not be enacted and are preempted.

NEW SECTION. Sec. 9. A new section is added to chapter 42.56 RCW to read as follows:

Information submitted to the department of ecology under chapter 70A.--- RCW (the new chapter created in section 24 of this act), that contains business trade secrets or proprietary information about manufacturing processes and equipment, is exempt from disclosure under this chapter.

NEW SECTION. Sec. 10. (1) Prior to use of any advanced technology for conversion of postuse plastic polymers for the purpose of producing recycled material to be counted toward compliance obligations under sections 3 through 5 of this act, a producer or the plastics packaging industry must provide the department with a third-party assessment prepared to examine the impact of the advanced technology on the following:

(a) Air and water pollution and release or creation of any hazardous pollutants; and

(b) The greenhouse gas emissions resulting from processes of the advanced technology facility, taking into account the full life cycle.

(2) For purposes of this section, advanced technology includes, but is not limited to, depolymerization, gasification, pyrolysis, or solvolysis.

Sec. 11. RCW 70A.200.140 and 2020 c 20 s 1076 are each amended to read as follows:

(1) There is hereby created an account within the state treasury to be known as the waste reduction, recycling, and litter control account. Moneys in the account may be spent only after appropriation. Expenditures from the waste reduction, recycling, and litter control account shall be used as follows:

(a) Forty percent to the department of ecology, primarily for use by the departments of ecology, natural resources, revenue, transportation, and corrections, and the parks and recreation commission, for litter collection programs under RCW 70A.200.170. The amount to the department of ecology shall also

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be used for a central coordination function for litter control efforts statewide; to support employment of youth in litter cleanup as intended in RCW 70A.200.020, and for litter pick up using other authorized agencies; and for statewide public awareness programs under RCW 70A.200.150(7). The amount to the department shall also be used to defray the costs of administering the funding, coordination, and oversight of local government programs for waste reduction, litter control, recycling, and composting so that local governments can apply one hundred percent of their funding to achieving program goals. The amount to the department of revenue shall be used to enforce compliance with the litter tax imposed in chapter 82.19 RCW;

(b)(i) Twenty percent to the department for local government funding programs for waste reduction, litter control, recycling activities, and composting activities by cities and counties under RCW 70A.200.190, to be administered by the department of ecology; (ii) any unspent funds under (b)(i) of this subsection may be used to create and pay for a matching fund competitive grant program to be used by local governments for the development and implementation of contamination reduction and outreach plans for inclusion in comprehensive solid waste management plans or by local governments and nonprofit organizations for local or statewide education programs designed to help the public with litter control, waste reduction, recycling, and composting of primarily the products taxed under chapter 82.19 RCW. Recipients under this subsection include programs to reduce wasted food and food waste that are designed to achieve the goals established in RCW 70A.205.715(1) and that are consistent with the plan developed in RCW 70A.205.715(3). Grants must adhere to the following requirements: (A) No grant may exceed sixty thousand dollars; (B) grant recipients shall match the grant funding allocated by the department by an amount equal to twenty-five percent of eligible expenses. A local government's share of these costs may be met by cash or contributed services; (C) the obligation of the department to make grant payments is contingent upon the availability of the amount of money appropriated for this subsection (1)(b); and (D) grants are managed under the guidelines for existing grant programs; ~~((and))~~

(c) ~~((Forty))~~ Beginning June 30, 2021, until June 30, 2022:

(i) Four percent to the department of ecology to implement and enforce chapter 70A.--- RCW (the new chapter created in section 24 of this act);

(ii) Thirty-six percent to the department of ecology to: ~~((#))~~ (A) Implement activities under RCW 70A.200.150 for waste reduction, recycling, and composting efforts; ~~((#))~~ (B) provide technical assistance to local governments and commercial businesses to increase recycling markets and recycling and composting programs primarily for the products taxed under chapter 82.19 RCW designed to educate citizens about waste reduction, litter control, and recyclable and compostable products and programs; ~~((#))~~ (C) increase access to waste reduction, composting, and recycling programs, particularly for food packaging and plastic bags and appropriate composting techniques; and ~~((#))~~ (D) for programs to reduce wasted food and food waste that are designed to achieve the goals established in RCW 70A.205.715(1) and that are consistent with the plan developed in RCW 70A.205.715(3); and

(d) After June 30, 2022, 40 percent to the department of ecology: (i) To implement activities under RCW 70A.200.150 for waste reduction, recycling, and composting efforts; (ii) to provide technical assistance to local governments and commercial businesses to increase recycling markets and recycling and composting programs primarily for the products taxed under chapter 82.19 RCW designed to educate citizens about waste reduction, litter control, and recyclable and compostable products

and programs; (iii) to increase access to waste reduction, composting, and recycling programs, particularly for food packaging and plastic bags and appropriate composting techniques; and (iv) for programs to reduce wasted food and food waste that are designed to achieve the goals established in RCW 70A.205.715(1) and that are consistent with the plan developed in RCW 70A.205.715(3).

(2) All taxes imposed in RCW 82.19.010 and fines and bail forfeitures collected or received pursuant to this chapter shall be deposited in the waste reduction, recycling, and litter control account and used for the programs under subsection (1) of this section.

(3) Not less than five percent and no more than ten percent of the amount appropriated into the waste reduction, recycling, and litter control account every biennium shall be reserved for capital needs, including the purchase of vehicles for transporting crews and for collecting litter and solid waste. Capital funds shall be distributed among state agencies and local governments according to the same criteria provided in RCW 70A.200.170 for the remainder of the funds, so that the most effective waste reduction, litter control, recycling, and composting programs receive the most funding. The intent of this subsection is to provide funds for the purchase of equipment that will enable the department to account for the greatest return on investment in terms of reaching a zero litter goal.

(4) Funds in the waste reduction, recycling, and litter control account, collected under chapter 82.19 RCW, must be prioritized for the products identified under RCW 82.19.020 solely for the purposes of recycling, composting, and litter collection, reduction, and control programs."

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 14, line 36, after "act," insert "to set minimum postconsumer recycled content for plastic packaging and to assess fees, and sections 12 through 14 of this act."

On page 16, after line 30, insert the following:

"NEW SECTION. Sec. 23. Nothing in this chapter changes or limits the authority of the Washington utilities and transportation commission to regulate collection of solid waste, including curbside collection of residential recyclable materials, nor does this chapter change or limit the authority of a city or town to provide the service itself or by contract under RCW 81.77.020."

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 16, line 31, after "through" strike "11" and insert "8, 10, 12 through 20, and 23"

On page 1, line 4 of the title, after "containers;" strike all material through "penalties" on line 6 and insert "amending RCW 70A.200.140 and 43.21B.300; reenacting and amending RCW 43.21B.110; adding a new section to chapter 42.56 RCW; adding a new chapter to Title 70A RCW; creating a new section; and prescribing penalties"

Senator Braun spoke in favor of adoption of the amendment.

WITHDRAWAL OF AMENDMENT

On motion of Senator Braun and without objection, floor amendment no. 193 by Senator Rivers on page 1, line 20 to Second Substitute Senate Bill No. 5022 was withdrawn.

MOTION

Senator Warnick moved that the following floor amendment

no. 194 by Senator Warnick be adopted:

On page 2, line 15, after "formula" insert "and products containing dairy milk as defined in RCW 15.36.012"

On page 2, line 18, after "Washington" insert "except for producers and manufacturers of products containing dairy milk as defined in RCW 15.36.012"

On page 2, beginning on line 26, strike all of subsection (5) Renumber the remaining subsections consecutively and correct any internal references accordingly.

On page 5, line 10, after "(3)" strike "(a)"

On page 5, beginning on line 14, after "Washington" strike "effective for beverages except dairy milk"

On page 5, at the beginning of line 16, strike "(i)" and insert "(a)"

On page 5, at the beginning of line 18, strike "(ii)" and insert "(b)"

On page 5, at the beginning of line 20, strike "(iii)" and insert "(c)"

On page 5, beginning on line 22, strike all material through "weight." on line 28

Senators Warnick, Honeyford, Wagoner and Fortunato spoke in favor of adoption of the amendment.

Senators Dhingra and Rolfes spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 194 by Senator Warnick on page 2, line 15 to Second Substitute Senate Bill No. 5022.

The motion by Senator Warnick failed and floor amendment no. 194 was not adopted by voice vote.

WITHDRAWAL OF AMENDMENT

On motion of Senator Rivers and without objection, floor amendment no. 329 by Senator Rivers on page 9, line 3 to Second Substitute Senate Bill No. 5022 was withdrawn.

MOTION

Senator Das moved that the following striking floor amendment no. 330 by Senator Das be adopted:

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. FINDINGS—INTENT. (1) The legislature finds that minimum recycled content requirements for plastic beverage containers, trash bags, and household cleaning and personal care product containers, bans on problematic and unnecessary plastic packaging, and standards for customer opt-in for food service packaging and accessories are among actions needed to improve the state's recycling system as well as reduce litter.

(2) By implementing a minimum recycled content requirement for plastic beverage containers, trash bags, and household cleaning and personal care product containers; prohibiting the sale and distribution of certain expanded polystyrene products; and establishing optional serveware requirements as provided for in this chapter; the legislature intends to take another step towards ensuring plastic packaging and other packaging materials are reduced, recycled, and reused.

NEW SECTION. Sec. 2. DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Beverage" means beverages identified in (a) through (f) of this subsection, intended for human or animal consumption, and

in a quantity more than or equal to two fluid ounces and less than or equal to one gallon:

- (a) Water and flavored water;
- (b) Beer or other malt beverages;
- (c) Wine;
- (d) Distilled spirits;

(e) Mineral water, soda water, and similar carbonated soft drinks; and

(f) Any beverage other than those specified in this subsection, except infant formula or medical food as defined in 21 U.S.C. Sec. 360ee(b)(3).

(2) "Beverage manufacturer" means a manufacturer of one or more beverages described in subsection (1) of this section, that are sold, offered for sale, or distributed in a plastic beverage container in Washington.

(3) "Beverage manufacturing industry" means an association that represents companies that manufacture beverages.

(4) "Condiment packaging" means packaging used to deliver single-serving condiments to customers. Condiment packaging includes, but is not limited to, single-serving packaging for ketchup, mustard, relish, mayonnaise, hot sauce, coffee creamer, salad dressing, jelly and jam, and soy sauce.

(5) "Dairy milk" means a beverage that designates milk as the predominant (first) ingredient in the ingredient list on the container's label.

(6) "Department" means the department of ecology.

(7) "Expanded polystyrene" means blown polystyrene and expanded and extruded foams that are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, and extrusion-blow molding (extruded foam polystyrene).

(8) "Food service business" means a business selling or providing food for consumption on or off the premises, and includes full-service restaurants, fast food restaurants, cafes, delicatessens, coffee shops, grocery stores, vending trucks or carts, home delivery services, delivery services provided through an online application, and business or institutional cafeterias.

(9) "Food service product" means a product including, but not limited to, containers, plates, bowls, cups, lids, beverage containers, meat trays, deli rounds, utensils, sachets, straws, condiment packaging, clamshells and other hinged or lidded containers, wrap, portion cups, and other food service products that are intended for one-time use and used for food or drink offered for sale or use.

(10) "Household cleaning and personal care product" means products identified in (a) through (f) of this subsection:

- (a) Laundry detergents, softeners, and stain removers;
- (b) Household cleaning products;
- (c) Liquid soap;

(d) Shampoo, conditioner, styling sprays and gels, and other hair care products;

(e) Lotion, moisturizer, facial toner, and other skin care products; or

(f) Oral hygiene products.

(11) "Household cleaning and personal care product manufacturing industry" means an association that represents companies that manufacture household cleaning and personal care products.

(12) "Plastic beverage container" means a bottle or other rigid container that is capable of maintaining its shape when empty, comprised solely of one or multiple plastic resins and containing a beverage. Plastic beverage container does not include:

(a) Refillable beverage containers (i.e., containers that are sufficiently durable for multiple rotations of their original or

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similar purpose and are intended to function in a system of reuse);

(b) Rigid plastic containers or plastic bottles that are medical devices, medical products that are required to be sterile, and nonprescription and prescription drugs, dietary supplements as defined in RCW 82.08.0293, and packaging used for those products;

(c) Bladders or pouches that contain wine; or

(d) Liners, caps, corks, closures, labels, and other items added externally or internally but otherwise separate from the structure of the bottle or container.

(13) "Plastic household cleaning and personal care product container" means a bottle, jug, or other rigid container with a neck or mouth narrower than the base, a minimum capacity of eight fluid ounces or its equivalent volume, a maximum capacity of five fluid gallons or its equivalent volume that is capable of maintaining its shape when empty, comprised solely of one or multiple plastic resins, and containing a household cleaning or personal care product. "Plastic household cleaning and personal care product container" does not include:

(a) Refillable household cleaning and personal care product containers (i.e., containers that are sufficiently durable for multiple rotations of their original or similar purpose and are intended to function in a system of reuse); and

(b) Rigid plastic containers or plastic bottles that are medical devices, medical products that are required to be sterile, and nonprescription and prescription drugs, dietary supplements as defined in RCW 82.08.0293, and packaging used for those products.

(14) "Plastic trash bag" means a bag that is made of noncompostable plastic, is at least 0.70 mils thick, and is designed and manufactured for use as a container to hold, store, or transport materials to be discarded or recycled, and includes, but is not limited to, a garbage bag, recycling bag, lawn or leaf bag, can liner bag, kitchen bag, or compactor bag. "Plastic trash bag" does not include any compostable bags meeting the requirements of chapter 70A.455 RCW.

(15) "Plastic trash bag manufacturing industry" means an association that represents companies that manufacture plastic trash bags.

(16) "Postconsumer recycled content" means the content of a product or packaging made of recycled materials derived specifically from recycled material generated by households or by commercial, industrial, and institutional facilities in their role as end users of the product that can no longer be used for its intended purpose. This includes returns of material from the distribution chain.

(17)(a) "Producer of household cleaning and personal care product containers" means a manufacturer or entity that uses containers that are sold, offered for sale, or distributed at a physical retail location or remote sale in this state, in the following hierarchy:

(i) A manufacturer or entity who uses a container and sells, offers for sale, or distributes a product in a container under their own brand;

(ii) If the container is used by a person other than the brand owner, the producer of the container is the person who is the owner or licensee of a brand or trademark under which a container is sold, offered for sale, or distributed in or into this state;

(iii) If there is no person described in (a)(i) and (ii) of this subsection within the United States, the producer of the container is the person who imports the container into the United States for use in a commercial enterprise that sells, offers for sale, or distributes the container in this state; or

(iv) The manufacturer or entity under (a)(i) of this subsection who uses a container, under their own brand, may notify the

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department of another manufacturer or third-party entity that has agreed to fulfill the duties of a producer for designated containers used under this chapter. The notification must be submitted jointly with the manufacturer or third-party entity. In the event that the brand no longer maintains a contract with the manufacturer or entity, the original producer in (a)(i) of this subsection must notify the state within 30 days that the product container has been removed from the market and is no longer reportable for that brand.

(b) A "producer of household cleaning and personal care product containers" does not include:

(i) Government agencies, municipalities, or other political subdivisions of the state;

(ii) Registered 501(c)(3) charitable organizations and 501(c)(4) social welfare organizations; or

(iii) De minimis producers that annually sell, offer for sale, distribute, or import into the country for sale in Washington:

(A) Less than one ton of household cleaning and personal care product containers each year; or

(B) Household cleaning and personal care products that in aggregate generate less than \$1,000,000 in revenue each year.

(18)(a) "Producer of plastic trash bags that are sold, offered for sale, or distributed at physical retail location or remote sale in this state" means, in the following hierarchy:

(i) A manufacturer or entity who sells, offers for sale, or distributes plastic trash bags under their own brand;

(ii) The person who is the owner or licensee of a brand or trademark under which the plastic trash bags are sold, offered for sale, or distributed in or into this state;

(iii) If there is no person described in (a)(i) and (ii) of this subsection within the United States, the producer of the plastic trash bags is the person who imports the plastic trash bags into the United States for use in a commercial enterprise that sells, offers for sale, or distributes the plastic trash bags in this state; or

(iv) The manufacturer or entity under (a)(i) of this subsection who sells, offers for sale, or distributes plastic trash bags under their own brand, may notify the department of another manufacturer or third-party entity that has agreed to fulfill the duties of a producer under this chapter. The notification must be submitted jointly with the manufacturer or third-party entity. In the event that the brand no longer maintains a contract with the manufacturer or entity, the original producer in (a)(i) of this subsection must notify the state within 30 days that the product has been removed from the market and is no longer reportable for that brand.

(b) A "producer of plastic trash bags" does not include:

(i) Government agencies, municipalities, or other political subdivisions of the state;

(ii) Registered 501(c)(3) charitable organizations and 501(c)(4) social welfare organizations; or

(iii) De minimis producers that annually sell, offer for sale, distribute, or import into the country for sale in Washington:

(A) Less than one ton of plastic trash bags each year; or

(B) Plastic trash bags that in aggregate generate less than \$1,000,000 each year in revenue.

(19)(a) "Retail establishment" means any person, corporation, partnership, business, facility, vendor, organization, or individual that sells or provides merchandise, goods, or materials directly to a customer.

(b) "Retail establishment" includes, but is not limited to, food service businesses, grocery stores, department stores, hardware stores, home delivery services, pharmacies, liquor stores, restaurants, catering trucks, convenience stores, or other retail stores or vendors, including temporary stores or vendors at farmers markets, street fairs, and festivals.

(20)(a) "Utensil" means a product designed to be used by a consumer to facilitate the consumption of food or beverages, including knives, forks, spoons, cocktail picks, chopsticks, splash sticks, and stirrers.

(b) "Utensil" does not include plates, bowls, cups, and other products used to contain food or beverages.

NEW SECTION. Sec. 3. POSTCONSUMER RECYCLED CONTENT IN PLASTIC BEVERAGE CONTAINERS. (1) Beginning January 1, 2023, beverage manufacturers that offer for sale, sell, or distribute in Washington beverages in plastic beverage containers must meet minimum postconsumer recycled content as required under subsection (3) of this section.

(2)(a) On or before April 1, 2022, and annually thereafter, beverage manufacturers that offer for sale, sell, or distribute in Washington beverages in plastic beverage containers must register with the department individually or through a third-party representative registering on behalf of a group of beverage manufacturers.

(b) After January 1, 2023, a beverage manufacturer that offers for sale, sells, or distributes in Washington beverages in plastic beverage containers not registered with the department either individually or through a third party may not sell or supply beverage containers in or into Washington state.

(c) Registration information must include a list of the beverage manufacturers and the brand names of the beverages represented in the registration submittal. Beginning April 1, 2024, registration information may accompany the annual reporting required under section 4 of this act.

(d)(i) By January 31, 2022, and every January 31st thereafter, the department must identify the annual costs it will incur to implement this section and sections 4 and 5 of this act in the next fiscal year, including rule making, and invoices of costs for beverage manufacturers or their third-party representatives. The department must determine an annual payment by beverage manufacturers or their third-party representative that is adequate to cover, but not exceed, the department's full costs to implement, administer, and enforce this chapter in the next fiscal year, including rule making. The department must equitably determine payment amounts for an individual beverage manufacturer and third-party representatives.

(ii) The department must:

(A) Apply any remaining annual payment funds from the current year to the annual payment for the coming year, if the collected annual payment exceeds the department's costs for a given year; and

(B) Increase annual payments for the coming year to cover the department's costs, if the collected annual payment was less than the department's costs for a given year.

(e) By April 1, 2022, and every April 1st thereafter, beverage manufacturers or their third-party representative must submit a payment as determined by the department under (d) of this subsection.

(3)(a) A beverage manufacturer that sells, offers for sale, or distributes plastic beverage containers in or into Washington must meet the following annual minimum postconsumer recycled content percentage for the total quantity of plastic beverage containers, by weight, that are sold, offered for sale, or distributed in Washington effective for beverages except dairy milk:

(i) January 1, 2023, through December 31, 2025: No less than 15 percent postconsumer recycled content plastic by weight;

(ii) January 1, 2026, through December 31, 2030: No less than 25 percent postconsumer recycled content plastic by weight; and

(iii) On and after January 1, 2031: No less than 50 percent postconsumer recycled content plastic by weight.

(b) For dairy milk:

(i) January 1, 2028, through December 31, 2030: No less than

15 percent postconsumer recycled content plastic by weight;

(ii) January 1, 2031, through December 31, 2035: No less than 25 percent postconsumer recycled content plastic by weight; and

(iii) On and after January 1, 2036: No less than 50 percent postconsumer recycled content plastic by weight.

(4)(a) Beginning January 1, 2025, the department may, on an annual basis, review and determine whether to adjust the minimum postconsumer recycled content percentage required pursuant to subsection (3) of this section. The department's review may be initiated by the department or at the petition of the beverage manufacturing industry not more than once annually. The department may not adjust the minimum postconsumer recycled content requirements above the minimum postconsumer recycled content percentages required pursuant to subsection (3) of this section. In making a determination pursuant to this subsection, the department must consider, at a minimum, all of the following factors:

(i) Changes in market conditions, including supply and demand for postconsumer recycled content plastics, collection rates, and bale availability both domestically and globally;

(ii) Recycling rates;

(iii) The availability of recycled plastic suitable to meet the minimum postconsumer recycled content requirements pursuant to subsection (3) of this section, including the availability of high quality recycled plastic, and food-grade recycled plastic from beverage container recycling programs;

(iv) The capacity of recycling or processing infrastructure; and

(v) The progress made by beverage manufacturers in achieving the goals of this section.

(b) The beverage manufacturing industry or a beverage manufacturer may appeal the department's decision under (a) of this subsection to the pollution control hearings board within 30 days of the department's determination.

(5) A beverage manufacturer that does not achieve the postconsumer recycled content requirements established under this section is subject to a penalty established in section 5 of this act.

(6) A city, town, county, or municipal corporation may not implement local recycled content requirements for plastic beverage containers that are subject to minimum postconsumer recycled content as required under this section.

(7) The department may enter into a contract for the services required to implement this chapter and related duties of the department.

NEW SECTION. Sec. 4. BEVERAGE MANUFACTURER REPORTING REQUIREMENTS. (1)(a) Beginning April 1, 2024, beverage manufacturers, individually or through a third party representing a group of manufacturers, must provide an annual report to the department that includes the amount of virgin plastic and the amount of postconsumer recycled content by resin type used for plastic beverage containers for beverages manufactured by the beverage manufacturer that are sold, offered for sale, or distributed into Washington state, including the total postconsumer recycled content resins as a percentage of total weight. The report must be submitted in a format and manner prescribed by the department. A manufacturer may submit national data allocated on a per capita basis for Washington to approximate the information required in this subsection if the manufacturer demonstrates to the department that state level data is not available or feasible to generate.

(b) The department must post the information reported under this subsection on its website.

(2) A beverage manufacturer that submits information or records to the department under this chapter may request that the information or records be made available only for the confidential use of the department, the director, or the appropriate division of

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the department. The director of the department must give consideration to the request and if this action is not detrimental to the public interest and is otherwise in accordance with the policies and purposes of chapter 43.21A RCW, the director must grant the request for the information to remain confidential as authorized in RCW 43.21A.160.

NEW SECTION. Sec. 5. PENALTIES FOR PLASTIC BEVERAGE CONTAINERS. (1)(a) Beginning January 1, 2023, a beverage manufacturer that does not meet the minimum postconsumer recycled content requirements pursuant to section 3 of this act is subject to a penalty pursuant to this section. Beginning March 1, 2024, the penalty must be collected annually, if a penalty reduction has not been approved pursuant to subsection (3) of this section and calculated in accordance with subsection (2) of this section.

(b) A beverage manufacturer that is assessed a penalty pursuant to this section may pay the penalty to the department in quarterly installments or arrange an alternative payment schedule subject to the approval of the department, not to exceed a 12-month payment plan unless an extension is needed due to unforeseen circumstances, such as a public health emergency, state of emergency, or natural disaster.

(2) Beginning June 1, 2024, and annually thereafter, the department shall invoice any assessed penalty for the previous calendar year based on the postconsumer recycled content requirement of the previous calendar year. The department shall calculate the amount of the penalty based upon the amounts in pounds in the aggregate of virgin plastic, postconsumer recycled content plastic, and any other plastic used by the beverage manufacturer to produce beverage containers sold or offered for sale in the state, in accordance with the following:

(a)(i) The annual penalty amount assessed to a beverage manufacturer must equal the product of both of the following: The total pounds of plastic used multiplied by the relevant minimum postconsumer recycled plastic target percentage, less the pounds of total plastic multiplied by the percent of postconsumer recycled plastic used; multiplied by 20 cents.

(ii) Example: [(Total pounds of plastic used x minimum postconsumer recycled plastic target percentage) – (Total pounds of plastic used x postconsumer recycled plastic percentage used)] x 20 cents.

(b) For the purposes of (a) of this subsection, both of the following apply:

(i) The total pounds of plastic used must equal the sum of the amount of virgin plastic, postconsumer recycled content plastic, and any other plastic used by the beverage manufacturer, as reported pursuant to section 4 of this act.

(ii) If the product calculated pursuant to (a) of this subsection is equal to or less than zero, a penalty may not be assessed.

(3)(a)(i) The department shall consider granting a reduction of penalties assessed pursuant to this section for the purpose of meeting the minimum postconsumer recycled content requirements required pursuant to section 3 of this act.

(ii) In determining whether to grant the reduction pursuant to (a)(i) of this subsection, the department shall consider, at a minimum, all of the following factors:

(A) Anomalous market conditions;

(B) Disruption in, or lack of supply of, recycled plastics; and

(C) Other factors that have prevented a beverage manufacturer from meeting the requirements.

(b) In lieu of or in addition to assessing a penalty under this section, the department may require a beverage manufacturer to submit a corrective action plan detailing how the beverage manufacturer plans to come into compliance with section 3 of this act.

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(4) A beverage manufacturer shall pay the penalty assessed pursuant to this section, as applicable, based on the information reported to the department as required under section 4 of this act in the form and manner prescribed by the department.

(5) A beverage manufacturer may appeal the penalty assessed under this section to the pollution control hearings board within 30 days of assessment.

NEW SECTION. Sec. 6. POSTCONSUMER RECYCLED CONTENT IN PLASTIC HOUSEHOLD CLEANING AND PERSONAL CARE PRODUCT CONTAINERS. (1) Beginning January 1, 2025, household cleaning and personal care product producers that offer for sale, sell, or distribute in Washington household cleaning and personal care products in plastic household cleaning and personal care product containers must meet minimum postconsumer recycled content as required under subsection (3) of this section.

(2)(a) On or before April 1, 2024, and annually thereafter, household cleaning and personal care product producers that offer for sale, sell, or distribute in Washington household cleaning and personal care products in plastic household cleaning and personal care product containers must register with the department individually or through a third-party representative registering on behalf of a group of household cleaning and personal care product producers.

(b) After January 1, 2025, a household cleaning and personal care product producer that offers for sale, sells, or distributes in Washington household cleaning and personal care products in plastic household cleaning and personal care product containers not registered with the department either individually or through a third party may not sell or supply plastic household cleaning and personal care product containers in or into Washington state.

(c) Registration information must include a list of the household cleaning and personal care product producers and the brand names of the household cleaning and personal care products represented in the registration submittal. Beginning April 1, 2026, registration information may accompany the annual reporting required under section 7 of this act.

(d)(i) By January 31, 2024, and every January 31st thereafter, the department must identify the annual costs it will incur to implement this section and sections 7 and 8 of this act in the next fiscal year, including rule making, and invoices of costs for household cleaning and personal care product producers or their third-party representatives. The department must determine an annual payment by household cleaning and personal care product producers or their third-party representatives that is adequate to cover, but not exceed, the department's full costs to implement, administer, and enforce this section and sections 7 and 8 of this act in the next fiscal year, including rule making. The department must equitably determine payment amounts for an individual household cleaning and personal care product producer and third-party representatives.

(ii) The department must:

(A) Apply any remaining annual payment funds from the current year to the annual payment for the coming year, if the collected annual payment exceeds the department's costs for a given year; and

(B) Increase annual payments for the coming year to cover the department's costs, if the collected annual payment was less than the department's costs for a given year.

(e) By April 1, 2024, and every April 1st thereafter, household cleaning and personal care product producers or their third-party representatives must submit a payment as determined by the department under (d) of this subsection.

(3) A household cleaning and personal care product producer that sells, offers for sale, or distributes plastic household cleaning

and personal care product containers in or into Washington must meet the following annual minimum postconsumer recycled content percentage for the total quantity, by weight, of plastic household cleaning and personal care product containers that are sold, offered for sale, or distributed in Washington:

(a) January 1, 2025, through December 31, 2027: No less than 15 percent postconsumer recycled content plastic by weight;

(b) January 1, 2028, through December 31, 2030: No less than 25 percent postconsumer recycled content plastic by weight; and

(c) On and after January 1, 2031: No less than 50 percent postconsumer recycled content plastic by weight.

(4)(a) Beginning January 1, 2025, the department may, on an annual basis, review and determine whether to adjust the minimum postconsumer recycled content percentage required pursuant to subsection (3) of this section. The department's review may be initiated by the department or at the petition of the household cleaning and personal care product manufacturing industry not more than once annually. The department may not adjust the minimum postconsumer recycled content requirements above the minimum postconsumer recycled content percentages required pursuant to subsection (3) of this section or below a minimum of 10 percent. In making a determination pursuant to this subsection, the department must consider, at a minimum, all of the following factors:

(i) Changes in market conditions, including supply and demand for postconsumer recycled content plastics, collection rates, and bale availability both domestically and globally;

(ii) Recycling rates;

(iii) The availability of recycled plastic suitable to meet the minimum postconsumer recycled content requirements pursuant to subsection (3) of this section, including the availability of high quality recycled plastic from plastic container recycling programs;

(iv) The capacity of recycling or processing infrastructure;

(v) The technical feasibility of achieving the minimum postconsumer recycled content requirements pursuant to subsection (3) of this section in plastic household cleaning and personal care product containers that are regulated under 21 C.F.R., chapter I, subchapter G, 7 U.S.C. Sec. 136, 15 U.S.C. Sec. 1471, or 40 C.F.R. Sec. 152.10; and

(vi) The progress made by household cleaning and personal care product producers in achieving the goals of this section.

(b) The household cleaning and personal care product manufacturing industry or a household cleaning and personal care product producer may appeal the department's decision under (a) of this subsection to the pollution control hearings board within 30 days of the department's determination.

(5) A household cleaning and personal care product producer that does not achieve the postconsumer recycled content requirements established under this section is subject to a penalty established in section 8 of this act.

(6) A city, town, county, or municipal corporation may establish local purchasing requirements that include recycled content standards that exceed the minimum recycled content requirements established by this chapter for plastic household cleaning and personal care product containers purchased by a city, town, or municipal corporation, or its contractor. A city, town, county, or municipal corporation may not implement local recycled content requirements for the sale, distribution, or use of plastic household cleaning and personal care product containers that are subject to minimum postconsumer recycled content as required under this section within its jurisdiction.

NEW SECTION. Sec. 7. HOUSEHOLD CLEANING AND PERSONAL CARE PRODUCT PRODUCER REPORTING REQUIREMENTS. (1)(a) Beginning April 1, 2026, household cleaning and personal care product producers,

individually or through a third party representing a group of producers, must provide an annual report submitted to the department in a format and manner prescribed by the department that includes the amount, by weight, of virgin plastic and the amount, by weight, of postconsumer recycled content, by resin type, used by the household cleaning and personal care product producer for plastic household cleaning and personal care product containers sold, offered for sale, or distributed into Washington state, including the total amount of postconsumer recycled content resins as a percentage of total weight. A producer may submit national data allocated on a per capita basis for Washington to approximate the information required in this subsection if the producer declares that state level data are not available or feasible to generate.

(b) The department must post the information reported under this subsection on its website.

(2) A household cleaning and personal care product producer that submits information or records to the department under this chapter may request that the information or records be made available only for the confidential use of the department, the director, or the appropriate division of the department. The director of the department must give consideration to the request, and if this action is not detrimental to the public interest and is otherwise in accordance with the policies and purposes of chapter 43.21A RCW, the director must grant the request for the information to remain confidential as authorized in RCW 43.21A.160.

NEW SECTION. Sec. 8. POSTCONSUMER RECYCLED CONTENT IN PLASTIC HOUSEHOLD CLEANING AND PERSONAL CARE PRODUCT CONTAINERS—PENALTIES.

(1)(a) Beginning January 1, 2025, a household cleaning and personal care product producer that does not meet the minimum postconsumer recycled content requirements pursuant to section 6 of this act is subject to a penalty pursuant to this section. Beginning May 1, 2026, the penalty must be collected annually, if a penalty reduction has not been approved pursuant to subsection (3) of this section and calculated in accordance with subsection (2) of this section.

(b) A household cleaning and personal care product producer that is assessed a penalty pursuant to this section may pay the penalty to the department in quarterly installments or arrange an alternative payment schedule subject to the approval of the department, not to exceed a 12-month payment plan unless an extension is needed due to unforeseen circumstances, such as a public health emergency, state of emergency, or natural disaster.

(2) Beginning June 1, 2026, and annually thereafter, the department shall invoice any assessed penalty for the previous calendar year based on the postconsumer recycled content requirement of the previous calendar year. The department shall calculate the amount of the penalty based upon the amounts in pounds in the aggregate of virgin plastic, postconsumer recycled content plastic, and any other plastic used by the household cleaning and personal care product producer to produce plastic household cleaning and personal care product containers sold or offered for sale in the state, in accordance with the following:

(a)(i) The annual penalty amount assessed to a household cleaning and personal care product producer must equal the product of both of the following: The total pounds of plastic used multiplied by the relevant minimum postconsumer recycled plastic target percentage, less the pounds of total plastic multiplied by the percent of postconsumer recycled plastic used; multiplied by 20 cents.

(ii) Example: [(Total pounds of plastic used x minimum postconsumer recycled plastic target percentage) – (Total pounds of plastic used x postconsumer recycled plastic percentage used)] x 20 cents.

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(b) For the purposes of (a) of this subsection, both of the following apply:

(i) The total pounds of plastic used must equal the sum of the amount of virgin plastic, postconsumer recycled content plastic, and any other plastic used by the household cleaning and personal care product producer, as reported pursuant to section 7 of this act.

(ii) If the product calculated pursuant to (a) of this subsection is equal to or less than zero, a penalty may not be assessed.

(3)(a)(i) The department shall consider granting a reduction of penalties assessed pursuant to this section for the purpose of meeting the minimum postconsumer recycled content requirements required pursuant to section 6 of this act.

(ii) In determining whether to grant the reduction pursuant to (a)(i) of this subsection, the department shall consider, at a minimum, all of the following factors:

(A) Anomalous market conditions;

(B) Disruption in, or lack of supply of, recycled plastics; and

(C) Other factors that have prevented a household cleaning and personal care product producer from meeting the requirements.

(b) In lieu of or in addition to assessing a penalty under this section, the department may require a household cleaning and personal care product producer to submit a corrective action plan detailing how the household cleaning and personal care product producer plans to come into compliance with section 6 of this act.

(4) A household cleaning and personal care product producer shall pay the penalty assessed pursuant to this section, as applicable, based on the information reported to the department as required under section 7 of this act in the form and manner prescribed by the department.

NEW SECTION. Sec. 9. POSTCONSUMER RECYCLED CONTENT IN PLASTIC HOUSEHOLD CLEANING AND PERSONAL CARE PRODUCT CONTAINERS—DEPARTMENT DUTIES. (1) The department may conduct audits and investigations for the purpose of ensuring compliance with section 6 of this act based on the information reported under section 7 of this act.

(2) The department shall annually publish a list of registered producers and associated brand names, their compliance status, and other information the department deems appropriate on the department's website.

NEW SECTION. Sec. 10. POSTCONSUMER RECYCLED CONTENT IN TRASH BAGS. (1)(a) Beginning January 1, 2023, plastic trash bag producers that offer for sale, sell, or distribute in Washington plastic trash bags must meet minimum postconsumer recycled content as required under subsection (3) of this section.

(b) Beginning January 1, 2023, plastic trash bag producers shall label each container of plastic trash bags sold, offered for sale, or distributed in Washington with:

(i) The name of the producer and the city, state, and country where the producer is located, which may be designated as the location of the producer's corporate headquarters; or

(ii) A uniform resource locator or quick response code to an internet website that contains the information required pursuant to (b)(i) of this subsection.

(c) The provisions of (a) of this subsection shall not apply to a bag that is designed and manufactured to hold, store, or transport dangerous waste or biomedical waste. For the purposes of this subsection, "dangerous waste" means any waste defined as dangerous waste under RCW 70A.300.010; and "biomedical waste" means any waste defined as that term under RCW 70A.228.010.

(2)(a) On or before April 1, 2022, and annually thereafter, plastic trash bag producers that offer for sale, sell, or distribute in

Washington plastic trash bags must register with the department individually or through a third-party representative registering on behalf of a group of plastic trash bag producers.

(b) After January 1, 2023, a plastic trash bag producer that offers for sale, sells, or distributes in Washington plastic trash bags not registered with the department either individually or through a third party may not sell or supply plastic trash bags in or into Washington state.

(c) Registration information must include a list of the plastic trash bag producers and the brand names of the plastic trash bags represented in the registration submittal. Beginning April 1, 2024, registration information may accompany the annual reporting required under section 11 of this act.

(d)(i) By January 31, 2022, and every January 31st thereafter, the department must identify the annual costs it will incur to implement this section and sections 11 and 12 of this act in the next fiscal year, including rule making, and invoices of costs for plastic trash bag producers or their third-party representatives. The department must determine an annual payment by plastic trash bag producers or their third-party representatives that is adequate to cover, but not exceed, the department's full costs to implement, administer, and enforce this chapter in the next fiscal year, including rule making. The department must equitably determine payment amounts for an individual plastic trash bag producer and third-party representatives.

(ii) The department must:

(A) Apply any remaining annual payment funds from the current year to the annual payment for the coming year, if the collected annual payment exceeds the department's costs for a given year; and

(B) Increase annual payments for the coming year to cover the department's costs, if the collected annual payment was less than the department's costs for a given year.

(e) By April 1, 2022, and every April 1st thereafter, plastic trash bag producers or their third-party representatives must submit a payment as determined by the department under (d) of this subsection.

(3) A plastic trash bag producer that sells, offers for sale, or distributes plastic trash bags in or into Washington must meet the following annual minimum postconsumer recycled content percentage on average for the total quantity, by weight, of plastic trash bags that are sold, offered for sale, or distributed in Washington:

(a) January 1, 2023, through December 31, 2024: No less than 10 percent postconsumer recycled content plastic by weight;

(b) January 1, 2025, through December 31, 2026: No less than 15 percent postconsumer recycled content plastic by weight; and

(c) On and after January 1, 2027: No less than 20 percent postconsumer recycled content plastic by weight.

(4)(a) Beginning January 1, 2024, the department may, on an annual basis, review and determine whether to adjust the minimum postconsumer recycled content percentage required pursuant to subsection (3) of this section. The department's review may be initiated by the department or at the petition of the plastic trash bag manufacturing industry not more than once annually. The department may not adjust the minimum postconsumer recycled content requirements above the minimum postconsumer recycled content percentages required pursuant to subsection (3) of this section or below the minimum percentage required in subsection (3)(a) of this section. In making a determination pursuant to this subsection, the department must consider, at a minimum, all of the following factors:

(i) Changes in market conditions, including supply and demand for postconsumer recycled content plastics, collection rates, and bale availability both domestically and globally;

(ii) Recycling rates;

(iii) The availability of recycled plastic suitable to meet the minimum postconsumer recycled content requirements pursuant to subsection (3) of this section, including the availability of high quality recycled plastic from flexible plastic recycling programs;

(iv) The capacity of recycling or processing infrastructure; and

(v) The progress made by plastic trash bag producers in achieving the goals of this section.

(b) The plastic trash bag manufacturing industry or a plastic trash bag producer may appeal the department's decision under (a) of this subsection to the pollution control hearings board within 30 days of the department's determination.

(5) A plastic trash bag producer that does not achieve the postconsumer recycled content requirements established under this section is subject to a penalty established in section 12 of this act.

(6) A city, town, county, or municipal corporation may establish local purchasing requirements that include recycled content standards that exceed the minimum recycled content requirements established by this chapter for plastic trash bags purchased by a city, town, or municipal corporation, or its contractor. A city, town, county, or municipal corporation may not implement local recycled content requirements for the sale, distribution, or use of plastic trash bags that are subject to minimum postconsumer recycled content as required under this section within its jurisdiction.

(7) The department may enter into a contract for the services required to implement this chapter and related duties of the department.

NEW SECTION. Sec. 11. PLASTIC TRASH BAG PRODUCER REPORTING REQUIREMENTS. (1)(a) Beginning April 1, 2024, plastic trash bag producers, individually or through a third party representing a group of producers, must provide an annual report submitted to the department in a format and manner prescribed by the department, that includes:

(i) The amount of virgin plastic and the amount of postconsumer recycled content by resin type used for plastic trash bags manufactured by the plastic trash bag producer that are sold, offered for sale, or distributed into Washington state, including the total postconsumer recycled content resins as a percentage of total weight. A producer may submit national data allocated on a per capita basis for Washington to approximate the information required in this subsection if the producer declares that state level data is not available or feasible to generate.

(ii) Proof of certification conducted by a third-party certification entity of the recycled content for each type of plastic trash bag containing postconsumer recycled content offered for sale, sold, or distributed in Washington.

(b) The department must post the information reported under this subsection on its website.

(2) A plastic trash bag producer that submits information or records to the department under this chapter may request that the information or records be made available only for the confidential use of the department, the director, or the appropriate division of the department. The director of the department must give consideration to the request, and if this action is not detrimental to the public interest and is otherwise in accordance with the policies and purposes of chapter 43.21A RCW, the director must grant the request for the information to remain confidential as authorized in RCW 43.21A.160.

NEW SECTION. Sec. 12. POSTCONSUMER RECYCLED CONTENT IN TRASH BAGS—PENALTIES. (1)(a) Beginning January 1, 2023, a plastic trash bag producer that does not meet the minimum postconsumer recycled content requirements pursuant to section 10 of this act is subject to a penalty pursuant to this section. Beginning March 1, 2024, the

penalty must be collected annually, if a penalty reduction has not been approved pursuant to subsection (3) of this section and calculated in accordance with subsection (2) of this section.

(b) A plastic trash bag producer that is assessed a penalty pursuant to this section may pay the penalty to the department in quarterly installments or arrange an alternative payment schedule subject to the approval of the department, not to exceed a 12-month payment plan unless an extension is needed due to unforeseen circumstances, such as a public health emergency, state of emergency, or natural disaster.

(2) Beginning June 1, 2024, and annually thereafter, the department shall invoice any assessed penalty for the previous calendar year based on the postconsumer recycled content requirement of the previous calendar year. The department shall calculate the amount of the penalty based upon the amounts in pounds in the aggregate of virgin plastic, postconsumer recycled content plastic, and any other plastic used by the plastic trash bag producer to produce plastic trash bags sold or offered for sale in the state, in accordance with the following:

(a)(i) The annual penalty amount assessed to a plastic trash bag producer must equal the product of both of the following: The total pounds of plastic used multiplied by the relevant minimum postconsumer recycled plastic target percentage, less the pounds of total plastic multiplied by the percent of postconsumer recycled plastic used; multiplied by 20 cents.

(ii) Example: [(Total pounds of plastic used x minimum postconsumer recycled plastic target percentage) – (Total pounds of plastic used x postconsumer recycled plastic percentage used)] x 20 cents.

(b) For the purposes of (a) of this subsection, both of the following apply:

(i) The total pounds of plastic used must equal the sum of the amount of virgin plastic, postconsumer recycled content plastic, and any other plastic used by the plastic trash bag producer, as reported pursuant to section 11 of this act.

(ii) If the product calculated pursuant to (a) of this subsection is equal to or less than zero, a penalty may not be assessed.

(3)(a)(i) The department shall consider granting a reduction of penalties assessed pursuant to this section for the purpose of meeting the minimum postconsumer recycled content requirements required pursuant to section 10 of this act.

(ii) In determining whether to grant the reduction pursuant to (a)(i) of this subsection, the department shall consider, at a minimum, all of the following factors:

(A) Anomalous market conditions;

(B) Disruption in, or lack of supply of, recycled plastics; and

(C) Other factors that have prevented a plastic trash bag producer from meeting the requirements.

(b) In lieu of or in addition to assessing a penalty under this section, the department may require a plastic trash bag producer to submit a corrective action plan detailing how the plastic trash bag producer plans to come into compliance with section 10 of this act.

(4) A plastic trash bag producer shall pay the penalty assessed pursuant to this section, as applicable, based on the information reported to the department as required under section 11 of this act in the form and manner prescribed by the department.

NEW SECTION. Sec. 13. POSTCONSUMER RECYCLED CONTENT IN TRASH BAGS—DEPARTMENT DUTIES. (1) The department may conduct audits and investigations for the purpose of ensuring compliance with section 10 of this act based on the information reported under section 11 of this act.

(2) The department shall annually publish a list of registered producers and associated brand names, their compliance status, and other information the department deems appropriate on the

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department's website.

NEW SECTION. Sec. 14. A new section is added to chapter 39.26 RCW to read as follows:

POSTCONSUMER RECYCLED CONTENT IN PLASTIC TRASH BAGS—PURCHASING PRIORITY.

(1) Beginning January 1, 2023, all state agencies shall purchase plastic trash bags manufactured by plastic trash bag producers that comply with the minimum recycled content requirements pursuant to section 10 of this act.

(2) By June 1, 2022, the department of ecology shall provide to the department a list of the plastic trash bag producer brands that comply with the minimum recycled content requirements pursuant to section 10 of this act, in order for state agencies to purchase compliant products, updated annually.

NEW SECTION. Sec. 15. EXPANDED POLYSTYRENE PROHIBITIONS. (1) Beginning June 1, 2023, the sale and distribution of the following expanded polystyrene products in or into the state is prohibited:

(a) A portable container that is designed or intended to be used for cold storage, except for expanded polystyrene containers used for drugs, medical devices, and biological materials as defined in the federal food, drug, and cosmetic act (21 U.S.C. Sec. 301 et seq.) or shipping perishable commodities from a wholesale or retail establishment;

(b) Food service products that include food containers, plates, clam shell-style containers, and hot and cold beverage cups. For the purposes of this subsection (1)(b), food service products do not include: Packaging for raw, uncooked, or butchered meat, fish, poultry, or seafood, vegetables, fruit, or egg cartons; and

(c) Void filling packaging products, which means loose fill packaging material, also referred to as packing peanuts.

(2)(a) The department must provide technical assistance and guidance to manufacturers of prohibited expanded polystyrene products, as requested. For manufacturers out of compliance with the requirements of this section, the department shall provide written notification and offer information to manufacturers that sell prohibited expanded polystyrene products who are in violation of this section. For the purposes of this section, written notification serves as notice of the violation. The department must issue at least two notices of violation by certified mail prior to assessing a penalty.

(b) A manufacturer of products in violation of this section is subject to a civil penalty for each violation in an amount not to exceed:

- (i) \$250 if it is the manufacturer's first penalty; and
- (ii) \$1,000 if the manufacturer has previously been issued a civil penalty under this section.

(c) Penalties collected under this section must be deposited in the model toxics control operating account created in RCW 70A.305.180.

(d) Penalties issued under this section are appealable to the pollution control hearings board established in chapter 43.21B RCW.

(3) A city, town, county, or municipal corporation may not implement a local ordinance restricting products prohibited under subsection (1) of this section unless the ordinance was filed by April 1, 2021, and enacted by June 1, 2021. An ordinance restricting products specified under subsection (1) of this section that was not enacted as of June 1, 2021, is preempted by this section.

(4) For the purposes of this section, "manufacturer" includes any person, firm, association, partnership, corporation, governmental entity, organization, or joint venture that:

- (a) Produces the products subject to restrictions in subsection (1) of this section; or

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(b) Is an importer or domestic distributor of a product subject to restrictions in subsection (1) of this section sold or offered for sale in or into the state.

NEW SECTION. Sec. 16. OPTIONAL SERVICEWARE.

(1) Beginning January 1, 2022:

(a) Except as provided in (c) of this subsection, a food service business at which the opportunity is provided for the on-site consumption of food or beverages may provide the following types of single-use food service products only upon request:

- (i) Utensils;
- (ii) Straws;
- (iii) Condiment packaging; and
- (iv) Beverage cup lids.

(b) Except as provided in (c) of this subsection, the following food service businesses may provide types of single-use food service products identified in (a) of this subsection only after affirming that the customer wants the single-use food service products:

(i) A food service business at which no opportunity is provided for the on-site consumption of food or beverages; or

(ii) A food service business serving food or beverages to customers via a drive-through.

(c) A food service business may provide beverage cup lids without request for:

- (i) Hot beverages;
- (ii) Beverages provided through delivery service or curbside pickup; and
- (iii) Beverages served to customers via a drive-through.

(2) Nothing in this section prohibits a food service business from making utensils, straws, condiments, and beverage cup lids available to customers using cylinders, bins, dispensers, containers, or other means of allowing for single-use utensils, straws, condiments, and beverage cup lids to be obtained at the affirmative volition of the customer. Utensils provided by a food service business for use by customers may not be bundled or packaged in plastic in such a way that a customer is unable to take only the type of single-use utensil or utensils desired without also taking a different type or types of utensil.

(3)(a) The department may issue a civil penalty of no less than \$150 per day and no more than \$2,000 per day to the owner or operator of a food service business for each day single-use food service products are provided in violation of this section.

(b) The department must issue at least two notices of violation by certified mail prior to assessing a penalty.

(c) Penalties collected under this section must be deposited in the model toxics control operating account created in RCW 70A.305.180.

(d) A food service business may appeal penalties assessed under this subsection to the pollution control hearings board within 30 days of assessment.

(4) Beginning July 1, 2021, a city, town, county, or municipal corporation may not enact an ordinance to reduce pollution from single-use food service products by requiring a request of single-use food service products by the customer of the food service business or other retail establishment.

NEW SECTION. Sec. 17. DEPARTMENT DUTIES. (1) The department may conduct audits and investigations for the purpose of ensuring compliance with sections 3, 6, and 10 of this act based on the information reported under sections 4, 7, and 11 of this act.

(2) To assist with the requirements specified under sections 15 and 16 of this act, the department:

- (a) Must prepare and post on its website information regarding the prohibitions on the sale and distribution of expanded polystyrene products as specified under section 15 of this act and

optional serviceware under section 16 of this act;

(b) For education and outreach to help implement sections 15 and 16 of this act, may develop culturally appropriate and translated educational materials and resources for the state's diverse ethnic populations from existing materials used by local jurisdictions and other states.

(3) The department may adopt rules as necessary to administer, implement, and enforce this chapter.

NEW SECTION. Sec. 18. RECYCLING ENHANCEMENT ACCOUNT. The recycling enhancement account is created in the custody of the state treasurer. All penalties collected by the department pursuant to sections 5, 8, and 12 of this act must be deposited in the account. Only the director of the department or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. Expenditures from the account may be used by the department only for providing grants to local governments for the purpose of supporting local solid waste and financial assistance programs.

NEW SECTION. Sec. 19. RECYCLED CONTENT ACCOUNT. The recycled content account is created in the custody of the state treasurer. All receipts received by the department under sections 3, 6, and 10 of this act must be deposited in the account. Only the director of the department or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. Expenditures from the account may be used by the department only for implementing, administering, and enforcing the requirements of sections 3 through 13 of this act.

NEW SECTION. Sec. 20. MARKET STUDY. (1) Subject to the availability of amounts appropriated for this specific purpose prior to January 1, 2028, the department shall contract with a research university or an independent third-party consultant to study the polyethylene terephthalate and high-density polyethylene markets for all of the following:

(a) Analyzing market conditions and opportunities in the state's recycling industry for meeting the minimum postconsumer recycled content requirements for plastic beverage containers pursuant to sections 3 and 4 of this act;

(b) Determining the data needs and tracking opportunities to increase the transparency and support of a more effective, fact-based public understanding of the recycling industry; and

(c) Recommending further policy modifications and measures to achieve the state's recycling targets with the least cost and optimal efficiency.

(2) If funding is provided pursuant to subsection (1) of this section and the department undertakes the study, the study must be completed by May 1, 2029.

Sec. 21. RCW 43.21B.110 and 2020 c 138 s 11 and 2020 c 20 s 1035 are each reenacted and amended to read as follows:

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

(a) Civil penalties imposed pursuant to RCW 18.104.155, 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070, 70A.515.060, sections 15 and 16 of this act, 76.09.170, 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

(b) Orders issued pursuant to RCW 18.104.043, 18.104.060,

43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070, sections 3, 6, and 10 of this act, 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

(c) Except as provided in RCW 90.03.210(2), the issuance, modification, or termination of any permit, certificate, or license by the department or any air authority in the exercise of its jurisdiction, including the issuance or termination of a waste disposal permit, the denial of an application for a waste disposal permit, the modification of the conditions or the terms of a waste disposal permit, or a decision to approve or deny an application for a solid waste permit exemption under RCW 70A.205.260.

(d) Decisions of local health departments regarding the grant or denial of solid waste permits pursuant to chapter 70A.205 RCW.

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

(f) Decisions of the department regarding waste-derived fertilizer or micronutrient fertilizer under RCW 15.54.820, and decisions of the department regarding waste-derived soil amendments under RCW 70A.205.145.

(g) Decisions of local conservation districts related to the denial of approval or denial of certification of a dairy nutrient management plan; conditions contained in a plan; application of any dairy nutrient management practices, standards, methods, and technologies to a particular dairy farm; and failure to adhere to the plan review and approval timelines in RCW 90.64.026.

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

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

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

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

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

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

(n) Decisions of the department of ecology that are appealable under sections 3, 5, 6, 8, 10, and 12 of this act, to assess penalties and to set recycled minimum postconsumer content for plastic beverage containers.

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

(a) Hearings required by law to be conducted by the shorelines hearings board pursuant to chapter 90.58 RCW.

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

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

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

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

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Sec. 22. RCW 43.21B.300 and 2020 c 20 s 1038 are each amended to read as follows:

(1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160, 70A.205.280, 70A.300.090, 70A.20.050, sections 15 and 16 of this act, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102 and chapter 70A.355 RCW shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the penalty from the department or the local air authority, describing the violation with reasonable particularity. For penalties issued by local air authorities, within thirty days after the notice is received, the person incurring the penalty may apply in writing to the authority for the remission or mitigation of the penalty. Upon receipt of the application, the authority may remit or mitigate the penalty upon whatever terms the authority in its discretion deems proper. The authority may ascertain the facts regarding all such applications in such reasonable manner and under such rules as it may deem proper and shall remit or mitigate the penalty only upon a demonstration of extraordinary circumstances such as the presence of information or factors not considered in setting the original penalty.

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

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

- (a) Thirty days after receipt of the notice imposing the penalty;
- (b) Thirty days after receipt of the notice of disposition by a local air authority on application for relief from penalty, if such an application is made; or
- (c) Thirty days after receipt of the notice of decision of the hearings board if the penalty is appealed.

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

(5) All penalties recovered shall be paid into the state treasury and credited to the general fund except those penalties imposed pursuant to RCW 18.104.155, which shall be credited to the reclamation account as provided in RCW 18.104.155(7), RCW 70A.15.3160, the disposition of which shall be governed by that provision, RCW 70A.300.090, which shall be credited to the model toxics control operating account created in RCW 70A.305.180, RCW 90.56.330, which shall be credited to the coastal protection fund created by RCW 90.48.390, and RCW 70A.355.070, which shall be credited to the underground storage tank account created by RCW 70A.355.090.

Sec. 23. RCW 70A.220.020 and 2020 c 20 s 1228 are each amended to read as follows:

~~((1) The provisions of this section and any rules adopted under this section shall be interpreted to conform with nationwide plastics industry standards.~~

~~(2))~~ Except as provided in RCW 70A.220.030(2), after January 1, 1992, no person may distribute, sell, or offer for sale

in this state a plastic bottle or rigid plastic container unless the container is labeled with a code identifying the appropriate resin type used to produce the structure of the container. ~~((The code shall consist of a number placed within three triangulated arrows and letters placed below the triangle of arrows. The triangulated arrows shall be equilateral, formed by three arrows with the apex of each point of the triangle at the midpoint of each arrow, rounded with a short radius. The pointer (arrowhead) of each arrow shall be at the midpoint of each side of the triangle with a short gap separating the pointer from the base of the adjacent arrow. The triangle, formed by the three arrows curved at their midpoints shall depict a clockwise path around the code number.))~~ The numbers and letters used shall be as follows:

- (a) 1.= PETE (polyethylene terephthalate)
- (b) 2.= HDPE (high density polyethylene)
- (c) 3.= V (vinyl) or PVC (polyvinyl chloride)
- (d) 4.= LDPE (low density polyethylene)
- (e) 5.= PP (polypropylene)
- (f) 6.= PS (polystyrene)
- (g) 7.= OTHER

NEW SECTION. **Sec. 24.** Sections 2 through 13 and 15 through 20 of this act constitute a new chapter in Title 70A RCW.

NEW SECTION. **Sec. 25.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

On page 1, line 3 of the title, after "and" strike the remainder of the title and insert "addressing plastic packaging; amending RCW 43.21B.300 and 70A.220.020; reenacting and amending RCW 43.21B.110; adding a new section to chapter 39.26 RCW; adding a new chapter to Title 70A RCW; creating a new section; and prescribing penalties."

WITHDRAWAL OF AMENDMENT

On motion of Senator Padden and without objection, floor amendment no. 334 by Senator Padden on page 1, line 6 to striking floor amendment no. 330 was withdrawn.

WITHDRAWAL OF AMENDMENT

On motion of Senator Fortunato and without objection, floor amendment no. 331 by Senator Fortunato on page 1, line 6 to striking floor amendment no. 330 was withdrawn.

WITHDRAWAL OF AMENDMENT

On motion of Senator Warnick and without objection, floor amendment no. 332 by Senator Warnick on page 2, line 2 to striking floor amendment no. 330 was withdrawn.

MOTION

Senator Rivers moved that the following floor amendment no. 333 by Senator Rivers be adopted:

On page 13, line 39, after "1471," insert "49 C.F.R. Sec. 178.33b,"

Senators Rivers, Das and Wagoner spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 333 by Senator Rivers on page 13, line 39 to striking floor amendment no. 330.

The motion by Senator Rivers carried and floor amendment no.

333 was adopted by voice vote.

MOTION

Senator Rivers moved that the following floor amendment no. 339 by Senator Rivers be adopted:

On page 22, after line 36, insert the following:

"NEW SECTION. Sec. 15. (1) By May 1, 2021, the department of commerce shall convene a stakeholder advisory committee to make recommendations on the development of mandatory postconsumer recycled content requirements for plastic packaging. By November 15, 2021, the department of commerce shall submit a report to the legislature containing the recommendations of the stakeholder advisory committee. The report must include recommendations where general stakeholder consensus has been achieved and note dissenting opinions where stakeholder consensus has not been achieved. The stakeholder advisory committee shall make recommendations using consensus-based decision making on the following:

- (a) Definitions;
 - (b) Methods for determining responsible parties;
 - (c) Methods for determining, reporting, and certifying recycled content compliance;
 - (d) The rates of mandatory postconsumer recycled content required by material type and target implementation dates;
 - (e) Methods for verifying claims on recycled content;
 - (f) Registration of producers;
 - (g) Administration of the program created in this act;
 - (h) Enforcement; and
 - (i) Exemptions and exceptions.
- (2) The stakeholder advisory committee shall consider information and findings by a variety of authoritative bodies related to recycled content, including mechanical and advanced recycling technologies.
- (3) The president of the senate and the speaker of the house of representatives shall jointly appoint at least one member to the stakeholder advisory committee from each of the following:
- (a) The department of commerce;
 - (b) The department of ecology;
 - (c) The utilities and transportation commission;
 - (d) Cities, including both small and large cities and cities located in urban and rural counties;
 - (e) Counties, including both small and large counties and urban and rural counties;
 - (f) Municipal collectors;
 - (g) A representative from the private sector waste and recycling industry that owns or operates a curbside recycling program and a material recovery facility;
 - (h) A solid waste collection company regulated under chapter 81.77 RCW that provides curbside recycling services;
 - (i) A material recovery facility operator that processes municipal solid waste from curbside recycling programs;
 - (j) A company that provides curbside recycling service pursuant to a municipal contract under RCW 81.77.020;
 - (k) A trade association that represents the private sector solid waste industry;
 - (l) Recycled plastic feedstock users;
 - (m) A trade association representing the plastics recycling industry;
 - (n) A recycled content certification organization;
 - (o) An environmental justice organization;
 - (p) An environmental nonprofit organization;
 - (q) An environmental nonprofit organization that specializes in waste and recycling issues;
 - (r) Plastic converters/manufacturers of resins;

- (s) A manufacturer of plastic packaging;
 - (t) A statewide general business trade association;
 - (u) Associations that represent consumer brand companies;
 - (v) Representatives of consumer brands;
 - (w) A consumer-oriented organization;
 - (x) Representatives of the state's most marginalized communities;
 - (y) A retailer or representative of the retail association;
 - (z) A representative of an advanced recycling technology provider that processes plastic material;
 - (aa) An association that represents cities;
 - (bb) An association that represents county solid waste managers;
 - (cc) A representative from a retail grocery association; and
 - (dd) A representative from a Washington headquartered online retailer.
- (4) The definitions in section 2 of this act apply throughout this section unless the context clearly requires otherwise.
- (5) This section expires January 1, 2023."

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 31, line 14, after "15 through" strike "20" and insert "21"

On page 31, line 24, after "creating" strike all material through "penalties" and insert "new sections; prescribing penalties; and providing an expiration date"

Senators Rivers and Das spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 339 by Senator Rivers on page 22, line 36 to striking floor amendment no. 330.

The motion by Senator Rivers carried and floor amendment no. 339 was adopted by voice vote.

Senators Das, Holy, Fortunato and Rolfes spoke in favor of adoption of the striking amendment as amended.

The President declared the question before the Senate to be the adoption of striking floor amendment no. 330 by Senator Das as amended to Second Substitute Senate Bill No. 5022.

The motion by Senator Das carried and striking floor amendment no. 330 as amended was adopted by voice vote.

MOTION

On motion of Senator Das, the rules were suspended, Engrossed Second Substitute Senate Bill No. 5022 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Das, Hunt and Wellman spoke in favor of passage of the bill.

Senators Fortunato and Wagoner spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5022.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5022 and the bill passed the Senate by the following vote: Yeas, 31; Nays, 17; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hobbs, Holy, Hunt,

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Keiser, King, Kuderer, Liias, Lovelett, Mullet, Nguyen, Nobles, Pedersen, Randall, Rivers, Robinson, Rolfes, Saldaña, Salomon, Stanford, Van De Wege, Wellman and Wilson, C.

Voting nay: Senators Braun, Brown, Dozier, Fortunato, Gildon, Hawkins, Honeyford, McCune, Muzzall, Padden, Schoesler, Sheldon, Short, Wagoner, Warnick, Wilson, J. and Wilson, L.

Excused: Senator Ericksen

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5022, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5097, by Senators Robinson, Conway, Darneille, Das, Hasegawa, Hunt, Keiser, Liias, Lovelett, Nguyen, Saldaña, Stanford, Van De Wege, and Wilson, C.

Expanding coverage of the paid family and medical leave program.

MOTION

On motion of Senator Robinson, Substitute Senate Bill No. 5097 was substituted for Senate Bill No. 5097 and the substitute bill was placed on the second reading and read the second time.

WITHDRAWAL OF AMENDMENT

On motion of Senator King and without objection, striking floor amendment no. 136 by Senator King to Substitute Senate Bill No. 5097 was withdrawn.

MOTION

Senator Robinson moved that the following striking floor amendment no. 336 by Senator Robinson be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature intends to prevent impacts, based on this act, to the family and medical leave insurance account or the application of a solvency surcharge.

Sec. 2. RCW 50A.05.010 and 2020 c 125 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this title.

(1)(a) "Casual labor" means work that:

(i) Is performed infrequently and irregularly; and

(ii) If performed for an employer, does not promote or advance the employer's customary trade or business.

(b) For purposes of casual labor:

(i) "Infrequently" means work performed twelve or fewer times per calendar quarter; and

(ii) "Irregularly" means work performed not on a consistent cadence.

(2) "Child" includes a biological, adopted, or foster child, a stepchild, a child's spouse, or a child to whom the employee stands in loco parentis, is a legal guardian, or is a de facto parent, regardless of age or dependency status.

(3) "Commissioner" means the commissioner of the department or the commissioner's designee.

(4) "Department" means the employment security department.

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(5)(a) "Employee" means an individual who is in the employment of an employer.

(b) "Employee" does not include employees of the United States of America.

(6) "Employee's average weekly wage" means the quotient derived by dividing the employee's total wages during the two quarters of the employee's qualifying period in which total wages were highest by twenty-six. If the result is not a multiple of one dollar, the department must round the result to the next lower multiple of one dollar.

(7)(a) "Employer" means: (i) Any individual or type of organization, including any partnership, association, trust, estate, joint stock company, insurance company, limited liability company, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee, or the legal representative of a deceased person, having any person in employment or, having become an employer, has not ceased to be an employer as provided in this title; (ii) the state, state institutions, and state agencies; and (iii) any unit of local government including, but not limited to, a county, city, town, municipal corporation, quasi-municipal corporation, or political subdivision.

(b) "Employer" does not include the United States of America.

(8)(a) "Employment" means personal service, of whatever nature, unlimited by the relationship of master and servant as known to the common law or any other legal relationship performed for wages or under any contract calling for the performance of personal services, written or oral, express or implied. The term "employment" includes an individual's entire service performed within or without or both within and without this state, if:

(i) The service is localized in this state; or

(ii) The service is not localized in any state, but some of the service is performed in this state; and

(A) The base of operations of the employee is in the state, or if there is no base of operations, then the place from which such service is directed or controlled is in this state; or

(B) The base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

(b) "Employment" does not include:

(i) Self-employed individuals;

(ii) Casual labor;

(iii) Services for remuneration when it is shown to the satisfaction of the commissioner that:

(A)(I) Such individual has been and will continue to be free from control or direction over the performance of such service, both under his or her contract of service and in fact; and

(II) Such service is either outside the usual course of business for which such service is performed, or that such service is performed outside of all the places of business of the enterprises for which such service is performed; and

(III) Such individual is customarily engaged in an independently established trade, occupation, profession, or business, of the same nature as that involved in the contract of service; or

(B) As a separate alternative:

(I) Such individual has been and will continue to be free from control or direction over the performance of such service, both under his or her contract of service and in fact; and

(II) Such service is either outside the usual course of business for which such service is performed, or that such service is performed outside of all the places of business of the enterprises for which such service is performed, or the individual is responsible, both under the contract and in fact, for the costs of the principal place of business from which the service is

performed; and

(III) Such individual is customarily engaged in an independently established trade, occupation, profession, or business, of the same nature as that involved in the contract of service, or such individual has a principal place of business for the work the individual is conducting that is eligible for a business deduction for federal income tax purposes; and

(IV) On the effective date of the contract of service, such individual is responsible for filing at the next applicable filing period, both under the contract of service and in fact, a schedule of expenses with the internal revenue service for the type of business the individual is conducting; and

(V) On the effective date of the contract of service, or within a reasonable period after the effective date of the contract, such individual has established an account with the department of revenue, and other state agencies as required by the particular case, for the business the individual is conducting for the payment of all state taxes normally paid by employers and businesses and has registered for and received a unified business identifier number from the state of Washington; and

(VI) On the effective date of the contract of service, such individual is maintaining a separate set of books or records that reflect all items of income and expenses of the business which the individual is conducting; or

(iv) Services that require registration under chapter 18.27 RCW or licensing under chapter 19.28 RCW rendered by an individual when:

(A) The individual has been and will continue to be free from control or direction over the performance of the service, both under the contract of service and in fact;

(B) The service is either outside the usual course of business for which the service is performed, or the service is performed outside of all the places of business of the enterprise for which the service is performed, or the individual is responsible, both under the contract and in fact, for the costs of the principal place of business from which the service is performed;

(C) The individual is customarily engaged in an independently established trade, occupation, profession, or business, of the same nature as that involved in the contract of service, or the individual has a principal place of business for the business the individual is conducting that is eligible for a business deduction for federal income tax purposes, other than that furnished by the employer for which the business has contracted to furnish services;

(D) On the effective date of the contract of service, the individual is responsible for filing at the next applicable filing period, both under the contract of service and in fact, a schedule of expenses with the internal revenue service for the type of business the individual is conducting;

(E) On the effective date of the contract of service, or within a reasonable period after the effective date of the contract, the individual has an active and valid certificate of registration with the department of revenue, and an active and valid account with any other state agencies as required by the particular case, for the business the individual is conducting for the payment of all state taxes normally paid by employers and businesses and has registered for and received a unified business identifier number from the state of Washington;

(F) On the effective date of the contract of service, the individual is maintaining a separate set of books or records that reflect all items of income and expenses of the business that the individual is conducting; and

(G) On the effective date of the contract of service, the individual has a valid contractor registration pursuant to chapter 18.27 RCW or an electrical contractor license pursuant to chapter 19.28 RCW.

(9) "Employment benefits" means all benefits provided or

made available to employees by an employer, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions.

(10) "Family leave" means any leave taken by an employee from work:

(a) To participate in providing care, including physical or psychological care, for a family member of the employee made necessary by a serious health condition of the family member;

(b) To bond with the employee's child during the first twelve months after the child's birth, or the first twelve months after the placement of a child under the age of eighteen with the employee; or

(c) Because of any qualifying exigency as permitted under the federal family and medical leave act, 29 U.S.C. Sec. 2612(a)(1)(E) and 29 C.F.R. Sec. 825.126(b)(1) through (9), as they existed on October 19, 2017, for family members as defined in subsection ~~((40))~~ (11) of this section.

(11) "Family member" means a child, grandchild, grandparent, parent, sibling, or spouse of an employee, and also includes any individual who regularly resides in the employee's home or where the relationship creates an expectation that the employee care for the person, and that individual depends on the employee for care.

(12) "Grandchild" means a child of the employee's child.

(13) "Grandparent" means a parent of the employee's parent.

(14) "Health care provider" means: (a) A person licensed as a physician under chapter 18.71 RCW or an osteopathic physician and surgeon under chapter 18.57 RCW; (b) a person licensed as an advanced registered nurse practitioner under chapter 18.79 RCW; or (c) any other person determined by the commissioner to be capable of providing health care services.

(15) "Medical leave" means any leave taken by an employee from work made necessary by the employee's own serious health condition.

(16) "Paid time off" includes vacation leave, personal leave, medical leave, sick leave, compensatory leave, or any other paid leave offered by an employer under the employer's established policy.

(17) "Parent" means the biological, adoptive, de facto, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse, or an individual who stood in loco parentis to an employee when the employee was a child.

(18) "Period of incapacity" means an inability to work, attend school, or perform other regular daily activities because of a serious health condition, treatment of that condition or recovery from it, or subsequent treatment in connection with such inpatient care.

(19) "Premium" or "premiums" means the payments required by RCW 50A.10.030 and paid to the department for deposit in the family and medical leave insurance account under RCW 50A.05.070.

(20) "Qualifying period" means the first four of the last five completed calendar quarters or, if eligibility is not established, the last four completed calendar quarters immediately preceding the application for leave.

(21)(a) "Remuneration" means all compensation paid for personal services including commissions and bonuses and the cash value of all compensation paid in any medium other than cash.

(b) Previously accrued compensation, other than severance pay or payments received pursuant to plant closure agreements, when assigned to a specific period of time by virtue of a collective bargaining agreement, individual employment contract, customary trade practice, or request of the individual compensated, is considered remuneration for the period to which it is assigned. Assignment clearly occurs when the compensation serves to make the individual eligible for all regular fringe

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benefits for the period to which the compensation is assigned.

(c) Remuneration also includes settlements or other proceeds received by an individual as a result of a negotiated settlement for termination of an individual written employment contract prior to its expiration date. The proceeds are deemed assigned in the same intervals and in the same amount for each interval as compensation was allocated under the contract.

(d) Remuneration does not include:

(i) The payment of tips;

(ii) Supplemental benefit payments made by an employer to an employee in addition to any paid family or medical leave benefits received by the employee; or

(iii) Payments to members of the armed forces of the United States, including the organized militia of the state of Washington, for the performance of duty for periods not exceeding seventy-two hours at a time.

(22)(a) "Serious health condition" means an illness, injury, impairment, or physical or mental condition that involves:

(i) Inpatient care in a hospital, hospice, or residential medical care facility, including any period of incapacity; or

(ii) Continuing treatment by a health care provider. A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:

(A) A period of incapacity of more than three consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:

(I) Treatment two or more times, within thirty days of the first day of incapacity, unless extenuating circumstances exist, by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services, such as a physical therapist, under orders of, or on referral by, a health care provider; or

(II) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider;

(B) Any period of incapacity due to pregnancy, or for prenatal care;

(C) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

(I) Requires periodic visits, defined as at least twice a year, for treatment by a health care provider, or by a nurse under direct supervision of a health care provider;

(II) Continues over an extended period of time, including recurring episodes of a single underlying condition; and

(III) May cause episodic rather than a continuing period of incapacity, including asthma, diabetes, and epilepsy;

(D) A period of incapacity which is permanent or long term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider, including Alzheimer's, a severe stroke, or the terminal stages of a disease; or

(E) Any period of absence to receive multiple treatments, including any period of recovery from the treatments, by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for: (I) Restorative surgery after an accident or other injury; or (II) a condition that would likely result in a period of incapacity of more than three consecutive, full calendar days in the absence of medical intervention or treatment, such as cancer, severe arthritis, or kidney disease.

(b) The requirement in (a)(i) and (ii) of this subsection for treatment by a health care provider means an in-person visit to a health care provider. The first, or only, in-person treatment visit

must take place within seven days of the first day of incapacity.

(c) Whether additional treatment visits or a regimen of continuing treatment is necessary within the thirty-day period shall be determined by the health care provider.

(d) The term extenuating circumstances in (a)(ii)(A)(I) of this subsection means circumstances beyond the employee's control that prevent the follow-up visit from occurring as planned by the health care provider. Whether a given set of circumstances are extenuating depends on the facts. For example, extenuating circumstances exist if a health care provider determines that a second in-person visit is needed within the thirty-day period, but the health care provider does not have any available appointments during that time period.

(e) Treatment for purposes of (a) of this subsection includes, but is not limited to, examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations. Under (a)(ii)(A)(II) of this subsection, a regimen of continuing treatment includes, but is not limited to, a course of prescription medication, such as an antibiotic, or therapy requiring special equipment to resolve or alleviate the health condition, such as oxygen. A regimen of continuing treatment that includes taking over-the-counter medications, such as aspirin, antihistamines, or salves, or bed rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider, is not, by itself, sufficient to constitute a regimen of continuing treatment for purposes of this title.

(f) Conditions for which cosmetic treatments are administered, such as most treatments for acne or plastic surgery, are not serious health conditions unless inpatient hospital care is required or unless complications develop. Ordinarily, unless complications arise, the common cold, the flu, ear aches, upset stomach, minor ulcers, headaches other than migraines, routine dental or orthodontia problems, and periodontal disease are examples of conditions that are not serious health conditions and do not qualify for leave under this title. Restorative dental or plastic surgery after an injury or removal of cancerous growths are serious health conditions provided all the other conditions of this section are met. Mental illness resulting from stress or allergies may be serious health conditions, but only if all the conditions of this section are met.

(g)(i) Substance abuse may be a serious health condition if the conditions of this section are met. However, leave may only be taken for treatment for substance abuse by a health care provider or by a licensed substance abuse treatment provider. Absence because of the employee's use of the substance, rather than for treatment, does not qualify for leave under this title.

(ii) Treatment for substance abuse does not prevent an employer from taking employment action against an employee. The employer may not take action against the employee because the employee has exercised his or her right to take medical leave for treatment. However, if the employer has an established policy, applied in a nondiscriminatory manner that has been communicated to all employees, that provides under certain circumstances an employee may be terminated for substance abuse, pursuant to that policy the employee may be terminated whether or not the employee is presently taking medical leave. An employee may also take family leave to care for a covered family member who is receiving treatment for substance abuse. The employer may not take action against an employee who is providing care for a covered family member receiving treatment for substance abuse.

(h) Absences attributable to incapacity under (a)(ii)(B) or (C) of this subsection qualify for leave under this title even though the

employee or the family member does not receive treatment from a health care provider during the absence, and even if the absence does not last more than three consecutive, full calendar days. For example, an employee with asthma may be unable to report for work due to the onset of an asthma attack or because the employee's health care provider has advised the employee to stay home when the pollen count exceeds a certain level. An employee who is pregnant may be unable to report to work because of severe morning sickness.

(23) "Service is localized in this state" has the same meaning as described in RCW 50.04.120.

(24) "Spouse" means a husband or wife, as the case may be, or state registered domestic partner.

(25) "State average weekly wage" means the most recent average weekly wage calculated under RCW 50.04.355 and available on January 1st of each year.

(26) "Supplemental benefit payments" means payments made by an employer to an employee as salary continuation or as paid time off. Such payments must be in addition to any paid family or medical leave benefits the employee is receiving.

(27) "Typical workweek hours" means:

(a) For an hourly employee, the average number of hours worked per week by an employee within the qualifying period; and

(b) Forty hours for a salaried employee, regardless of the number of hours the salaried employee typically works.

(28) "Wage" or "wages" means:

(a) For the purpose of premium assessment, the remuneration paid by an employer to an employee. The maximum wages subject to a premium assessment are those wages as set by the commissioner under RCW 50A.10.030;

(b) For the purpose of payment of benefits, the remuneration paid by one or more employers to an employee for employment during the employee's qualifying period. At the request of an employee, wages may be calculated on the basis of remuneration payable. The department shall notify each employee that wages are calculated on the basis of remuneration paid, but at the employee's request a redetermination may be performed and based on remuneration payable; and

(c) For the purpose of a self-employed person electing coverage under RCW 50A.10.010, the meaning is defined by rule.

NEW SECTION. Sec. 3. (1) The employment security department must collaborate with the paid family and medical leave advisory committee to collect and analyze disaggregated data relating to employment protections under Title 50A RCW.

(2) By December 1, 2021, the employment security department must submit a report to the appropriate committees of the legislature with the following information:

(a) Program utilization by employees covered under approved voluntary plans compared to employees covered under the state plan;

(b) Program utilization by employees working for employers with 50 or more employees compared to employees working for employers with fewer than 50 employees;

(c) The number of employees who took leave from an employer and did not appear on that employer's subsequent quarterly premium reports after leave had been completed. This data will be broken out between employers with 50 or more employees, by employment sector, and by employee earnings level. It will also include available employee demographic information, including data broken out by race and gender; and

(d) The lengths of leave employees took for different purposes, broken out between employers with 50 or more employees and employers with fewer than 50 employees, whether the employee appeared on subsequent quarterly premium reports after leave had been completed, by employment sector, and by employee

earnings level. It will also include available employee demographic information, including data broken out by race and gender.

(3) By June 30, 2022, and June 30, 2023, the employment security department must submit a report to the appropriate committees of the legislature with the following information:

(a) The number of individuals who used leave under Title 50A RCW in the preceding 12 months as a result of the amended definition of family member in this act; and

(b) The effects, if any, on the family and medical leave insurance account as a result of the amended definition of family member in this act."

On page 1, line 2 of the title, after "program;" strike the remainder of the title and insert "amending RCW 50A.050.010; and creating new sections."

MOTION

Senator Mullet moved that the following floor amendment no. 338 by Senator Mullet be adopted:

On page 11, after line 31, insert "**NEW SECTION. Sec. 5.** The number of individuals utilizing leave under Title 50A RCW as a result of the amended definition of family member in this act exceeds 500 individuals in any calendar year before July 1, 2023, the expenses of the additional leave must be paid by the general fund into the family and medical leave insurance account created in RCW 50A.05.070."

Senator Mullet spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 338 by Senator Mullet on page 11, line 31 to striking floor amendment no. 336.

The motion by Senator Mullet carried and floor amendment no. 338 was adopted by voice vote.

Senator Robinson spoke in favor of adoption of the striking amendment as amended.

The President declared the question before the Senate to be the adoption of striking floor amendment no. 336 by Senator Robinson, as amended, to Substitute Senate Bill No. 5097.

The motion by Senator Robinson carried and striking floor amendment no. 336, as amended, was adopted by voice vote.

MOTION

On motion of Senator Robinson, the rules were suspended, Engrossed Substitute Senate Bill No. 5097 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Robinson spoke in favor of passage of the bill.

Senator King spoke on passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5097.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5097 and the bill passed the Senate by the following vote: Yeas, 29; Nays, 19; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hobbs, Hunt, Keiser, King, Kuderer, Lias, Lovelett, Mullet, Nguyen, Nobles, Pedersen, Randall, Robinson, Rolfes, Saldaña, Salomon,

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Voting nay: Senators Braun, Brown, Dozier, Fortunato, Gildon, Hawkins, Holy, Honeyford, McCune, Muzzall, Padden, Rivers, Schoesler, Sheldon, Short, Wagoner, Warnick, Wilson, J. and Wilson, L.

Excused: Senator Ericksen

ENGROSSED SUBSTITUTE SENATE BILL NO. 5097, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5342, by Senators Schoesler, Dozier, Hunt and Mullet

Concerning irrigation district elections.

MOTIONS

On motion of Senator Schoesler, Substitute Senate Bill No. 5342 was substituted for Senate Bill No. 5342 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Schoesler, the rules were suspended, Substitute Senate Bill No. 5342 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Schoesler, Kuderer and Fortunato spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5342.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5342 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Dozier, Fortunato, Frockt, Gildon, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Lias, Lovelett, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Excused: Senator Ericksen

SUBSTITUTE SENATE BILL NO. 5342, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 1:31 p.m., on motion of Senator Lias, the Senate was declared to be at ease subject to the call of the President.

Senator Hasegawa announced a meeting of the Democratic Caucus.

Senator Rivers announced a meeting of the Republican Caucus.

The Senate was called to order at 4:14 p.m. by President Heck.

SECOND READING

SENATE BILL NO. 5287, by Senators Das, Kuderer, Conway, Keiser, Lias, Nguyen, Nobles, Pedersen, Randall, Salomon, and Wilson, C.

Concerning affordable housing incentives.

MOTION

On motion of Senator Das, Second Substitute Senate Bill No. 5287 was substituted for Senate Bill No. 5287 and the substitute bill was placed on the second reading and read the second time.

WITHDRAWAL OF AMENDMENT

On motion of Senator Wagoner and without objection, floor amendment no. 297 by Senator Wagoner on page 2, line 32 to Second Substitute Senate Bill No. 5287 was withdrawn.

WITHDRAWAL OF AMENDMENTS

On motion of Senator Wagoner and without objection, floor amendment no. 298 by Senator Wagoner on page 2, line 32 and floor amendment no. 299 by Senator Wagoner on page 2, line 38 to Second Substitute Senate Bill No. 5287 were withdrawn.

MOTION

Senator Rivers moved that the following floor amendment no. 311 by Senator Rivers be adopted:

On page 2, line 38, after "city" insert "that otherwise does not meet the qualifications under (a) through (c) of this subsection"

On page 2, at the beginning of line 39, after "84.14.020(1)(a)(iii)" strike "and" and insert "or"

On page 5, line 29, after "2024," insert "for a city as defined in RCW 84.14.010(3)(d)."

On page 7, line 24, after "for" strike "twelfth" and insert "twelve."

On page 7, line 26, after "with" strike "an option" and insert "rental relocation assistance as provided"

Beginning on page 7, line 28, after "(8)" strike all material through "chapter" on page 8, line 5, and insert "For any 12-year exemption authorized under subsection (1)(a)(ii)(B) or (iii) of this section after the effective date of this section, or for any 12-year exemption extension authorized under subsection (6) of this section, before the expiration of the exemption the applicant must provide tenant relocation assistance in an amount equal to one month's rent at the time the exemption expires to a qualified tenant, unless affordability requirements consistent, at a minimum, with those required under subsection (1)(a)(ii)(B) or (iii) of this section remain in place on the unit after the expiration of the exemption. To be eligible for tenant relocation assistance under this subsection, the tenant must occupy an income-restricted unit and qualify as a low-income household under this chapter"

On page 13, line 16, after "2024," insert "for a city as defined in RCW 84.14.010(3)(d),"

Senators Rivers and Das spoke in favor of adoption of the amendment.

Senator Salomon spoke against adoption of the amendment.

The President declared the question before the Senate to be the

adoption of floor amendment no. 311 by Senator Rivers on page 2, line 38 to Second Substitute Senate Bill No. 5287.

The motion by Senator Rivers carried and floor amendment no. 311 was adopted by voice vote.

WITHDRAWAL OF AMENDMENT

On motion of Senator Wagoner and without objection, floor amendment no. 300 by Senator Wagoner on page 2, line 38 to Second Substitute Senate Bill No. 5287 was withdrawn.

MOTION

Senator Wagoner moved that the following floor amendment no. 312 by Senator Wagoner be adopted:

On page 2, line 38, after "December 31," strike "2024" and insert "2031"

On page 2, line 39, after "84.14.020(1)(a)(iii)" strike "and" and insert "or"

Senators Wagoner and Das spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 312 by Senator Wagoner on page 2, line 38 to Second Substitute Senate Bill No. 5287.

The motion by Senator Wagoner carried and floor amendment no. 312 was adopted by voice vote.

MOTION

Senator Gildon moved that the following floor amendment no. 313 by Senator Gildon be adopted:

On page 17, line 24, after "later," insert "For preliminary or final applications submitted on or before February 15, 2020, that have been impacted by delays due to the COVID-19 public health crisis, including applications with any outstanding requirements such as obtaining a temporary certificate of occupancy, the city or county must extend the deadline for completion until such time as reasonably necessary to offset such delays, not to exceed 18 months after the effective date of this section. The extension is added immediately following the completion of any outstanding applications or previously authorized extensions, whichever is later."

Senator Gildon spoke in favor of adoption of the amendment.

Senator Das spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 313 by Senator Gildon on page 17, line 24 to Second Substitute Senate Bill No. 5287.

The motion by Senator Gildon did not carry and floor amendment no. 313 was not adopted by voice vote.

MOTION

On motion of Senator Das, the rules were suspended, Engrossed Second Substitute Senate Bill No. 5287 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Das, Fortunato, Salomon, Rivers, Wagoner, King and Kuderer spoke in favor of passage of the bill.

Senators Conway and Darneille spoke against passage of the bill.

The President declared the question before the Senate to be the

final passage of Engrossed Second Substitute Senate Bill No. 5287.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5287 and the bill passed the Senate by the following vote: Yeas, 43; Nays, 5; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Braun, Brown, Carlyle, Cleveland, Das, Dhingra, Dozier, Fortunato, Frockt, Gildon, Hawkins, Hobbs, Holy, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Rolfes, Saldaña, Salomon, Sheldon, Short, Stanford, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Voting nay: Senators Conway, Darneille, Hasegawa, Honeyford and Schoesler

Excused: Senator Ericksen

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5287, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5399, by Senators Randall, Cleveland, Das, Dhingra, Frockt, Hunt, Kuderer, Liias, Lovelett, Nguyen, Nobles, Robinson, Saldaña, Stanford, Van De Wege, Wellman, and Wilson, C.

Concerning the creation of a universal health care commission.

MOTION

On motion of Senator Randall, Second Substitute Senate Bill No. 5399 was substituted for Senate Bill No. 5399 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Wilson, L. moved that the following floor amendment no. 321 by Senator Wilson, L. be adopted:

On page 2, line 14, after "individuals" strike "over time"

Senator Wilson, L. spoke in favor of adoption of the amendment.

Senator Cleveland spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 321 by Senator Wilson, L. on page 2, line 14 to Second Substitute Senate Bill No. 5399.

The motion by Senator Wilson, L. did not carry and floor amendment no. 321 was not adopted by voice vote.

MOTION

Senator Short moved that the following floor amendment no. 326 by Senator Short be adopted:

On page 2, beginning on line 21, after "access" strike all material through "system," on line 22

On page 3, beginning on line 30, after "(i)" strike all material through "(ii)" on line 32

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ReNUMBER the remaining subsections consecutively and correct any internal references accordingly.

On page 4, beginning on line 12, after "(c)" strike all material through "(d)" on line 18

Reletter the remaining subsection consecutively and correct any internal references accordingly.

Senator Short spoke in favor of adoption of the amendment.

Senator Randall spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 326 by Senator Short on page 2, line 21 to Second Substitute Senate Bill No. 5399.

The motion by Senator Short did not carry and floor amendment no. 326 was not adopted by voice vote.

WITHDRAWAL OF AMENDMENT

On motion of Senator Rivers and without objection, floor amendment no. 319 by Senator Braun on page 2, line 38 to Second Substitute Senate Bill No. 5399 was withdrawn.

MOTION

Senator Muzzall moved that the following floor amendment no. 324 by Senator Muzzall be adopted:

On page 2, line 38, after "(h)" insert "An individual representing local health jurisdictions;

(i)"

Reletter the remaining subsection consecutively and correct any internal references accordingly.

Senators Muzzall and Randall spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 324 by Senator Muzzall on page 2, line 38 to Second Substitute Senate Bill No. 5399.

The motion by Senator Muzzall carried and floor amendment no. 324 was adopted by voice vote.

MOTION

Senator Rivers moved that the following floor amendment no. 320 by Senator Rivers be adopted:

On page 3, line 37, after "containment" insert "and savings"

Senators Rivers and Cleveland spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 320 by Senator Rivers on page 3, line 37 to Second Substitute Senate Bill No. 5399.

The motion by Senator Rivers carried and floor amendment no. 320 was adopted by voice vote.

MOTION

Senator Muzzall moved that the following floor amendment no. 323 by Senator Muzzall be adopted:

On page 4, line 24, after "feasible" insert "and cost-efficient"

Senator Muzzall spoke in favor of adoption of the amendment.

Senator Randall spoke against adoption of the amendment.

The President declared the question before the Senate to be the

adoption of floor amendment no. 323 by Senator Muzzall on page 4, line 24 to Second Substitute Senate Bill No. 5399.

The motion by Senator Muzzall did not carry and floor amendment no. 323 was not adopted by voice vote.

MOTION

Senator Wilson, L. moved that the following floor amendment no. 322 by Senator Wilson, L. be adopted:

On page 4, line 26, after "(9)" insert "By November 1, 2024, the commission must submit a separate report to the legislature and the governor detailing the costs for implementing a universal health care system.

(10)"

ReNUMBER the remaining subsections consecutively and correct any internal references accordingly.

Senator Wilson, L. spoke in favor of adoption of the amendment.

Senator Cleveland spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 322 by Senator Wilson, L. on page 4, line 26 to Second Substitute Senate Bill No. 5399.

The motion by Senator Wilson, L. did not carry and floor amendment no. 322 was not adopted by voice vote.

MOTION

Senator Randall moved that the following floor amendment no. 318 by Senator Randall be adopted:

On page 4, at the beginning of line 34, strike "(10)" and insert "(12)"

Senator Randall spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 318 by Senator Randall on page 4, line 34 to Second Substitute Senate Bill No. 5399.

The motion by Senator Randall carried and floor amendment no. 318 was adopted by voice vote.

MOTION

On motion of Senator Randall, the rules were suspended, Engrossed Second Substitute Senate Bill No. 5399 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Randall and Cleveland spoke in favor of passage of the bill.

Senators Wilson, L. and Fortunato spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5399.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5399 and the bill passed the Senate by the following vote: Yeas, 28; Nays, 20; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hobbs, Hunt, Keiser,

Kuderer, Lias, Lovelett, Nguyen, Nobles, Pedersen, Randall, Robinson, Rolfes, Saldaña, Salomon, Sheldon, Stanford, Van De Wege, Wellman and Wilson, C.

Voting nay: Senators Braun, Brown, Dozier, Fortunato, Gildon, Hawkins, Holy, Honeyford, King, McCune, Mullet, Muzzall, Padden, Rivers, Schoesler, Short, Wagoner, Warnick, Wilson, J. and Wilson, L.

Excused: Senator Ericksen

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5399, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5377, by Senators Frockt, Keiser, Conway, Das, Dhingra, Hunt, Kuderer, Lias, Lovelett, Wilson, C., Nguyen, Pedersen, Saldaña and Salomon

Increasing affordability of standardized plans on the individual market.

MOTION

On motion of Senator Frockt, Second Substitute Senate Bill No. 5377 was substituted for Senate Bill No. 5377 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Muzzall moved that the following floor amendment no. 317 by Senator Muzzall be adopted:

On page 2, line 11, after "enrolled in a" strike "silver or gold standard plan" and insert "qualified health plan"

Senator Muzzall spoke in favor of adoption of the amendment. Senator Cleveland spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 317 by Senator Muzzall on page 2, line 11 to Second Substitute Senate Bill No. 5377.

The motion by Senator Muzzall did not carry and floor amendment no. 317 was not adopted by voice vote.

MOTION

Senator Rivers moved that the following floor amendment no. 316 by Senator Rivers be adopted:

On page 7, beginning on line 9, after "authority" strike "or the health benefit exchange"

On page 7, line 13, after "authority" strike "and the exchange"

On page 7, line 17, after "authority" strike "or the exchange"

Senators Rivers and Frockt spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 316 by Senator Rivers on page 7, line 9 to Second Substitute Senate Bill No. 5377.

The motion by Senator Rivers carried and floor amendment no. 316 was adopted by voice vote.

MOTION

On motion of Senator Frockt, the rules were suspended, Engrossed Second Substitute Senate Bill No. 5377 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Frockt, Rivers and Cleveland spoke in favor of passage of the bill.

Senator Muzzall spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5377.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5377 and the bill passed the Senate by the following vote: Yeas, 30; Nays, 18; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hobbs, Hunt, Keiser, Kuderer, Lias, Lovelett, Mullet, Nguyen, Nobles, Pedersen, Randall, Rivers, Robinson, Rolfes, Saldaña, Salomon, Sheldon, Stanford, Van De Wege, Wellman and Wilson, C.

Voting nay: Senators Braun, Brown, Dozier, Fortunato, Gildon, Hawkins, Holy, Honeyford, King, McCune, Muzzall, Padden, Schoesler, Short, Wagoner, Warnick, Wilson, J. and Wilson, L.

Excused: Senator Ericksen

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5377, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5441, by Senators Wellman, Cleveland, Das and Lovelett

Concerning informed consent for breast implant surgery.

MOTION

On motion of Senator Wellman, Substitute Senate Bill No. 5441 was substituted for Senate Bill No. 5441 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Wellman moved that the following floor amendment no. 325 by Senator Wellman be adopted:

On page 2, line 15, after "(d)" insert "Information on any surgical mesh used during breast implant surgery including, but not limited to, mesh made of nondegradable synthetic materials, biodegradable synthetic materials, or animal or human derived tissues. This information must include a warning that no surgical mesh has been approved by the food and drug administration for use with breast implants;

(e)"

Reletter the remaining subsections consecutively and correct any internal references accordingly.

Senator Wellman spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 325 by Senator Wellman on

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page 2, line 15 to Substitute Senate Bill No. 5441.

The motion by Senator Wellman carried and floor amendment no. 325 was adopted by voice vote.

MOTION

On motion of Senator Wellman, the rules were suspended, Engrossed Substitute Senate Bill No. 5441 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Wellman, Muzzall, Cleveland and Wilson, J. spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5441.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5441 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Dozier, Fortunato, Frockt, Gildon, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Lias, Lovelett, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Excused: Senator Ericksen

ENGROSSED SUBSTITUTE SENATE BILL NO. 5441, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5045, by Senators Warnick, Lovelett, Robinson, Rolfes, Schoesler, Short and Van De Wege

Establishing a state meat and poultry inspection program.

MOTIONS

On motion of Senator Warnick, Second Substitute Senate Bill

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No. 5045 was substituted for Senate Bill No. 5045 and the substitute bill was placed on the second reading and read the second time.

Revised for 2nd Substitute: Expanding opportunities for meat and poultry processing and inspection.

On motion of Senator Warnick, the rules were suspended, Second Substitute Senate Bill No. 5045 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Warnick, Van De Wege and Muzzall spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5045.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5045 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Dozier, Fortunato, Frockt, Gildon, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Lias, Lovelett, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Excused: Senator Ericksen

SECOND SUBSTITUTE SENATE BILL NO. 5045, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 5:54 p.m., on motion of Senator Lias, the Senate adjourned until 10:00 o'clock a.m. Wednesday, March 3, 2021.

DENNY HECK, President of the Senate

BRAD HENDRICKSON, Secretary of the Senate

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5406		CHAPLAIN OF THE DAY	
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5406-S		Buddhist Center, Seattle.....	1
Second Reading	3	FLAG BEARERS	
Third Reading Final Passage	3	Washington State Patrol Honor Guard	1
5408		GUESTS	
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5408-S		1
Other Action.....	4	Smith, Ms. Grace, Pledge of Allegiance.....	1
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5408-S.E			