
HOUSE BILL 1826

State of Washington 52nd Legislature 1991 Regular Session

By Representatives Sprenkle, Prentice, Belcher, Brekke, Rust, Cole, Pruitt, Jones, Roland and Spanel.

Read first time February 11, 1991. Referred to Committee on Environmental Affairs.

1 AN ACT Relating to waste reduction; and adding a new chapter to
2 Title 70 RCW.

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

4 NEW SECTION. **Sec. 1.** The legislature finds that many of the
5 most potent waste reduction strategies can only be implemented by
6 manufacturers through product and package redesign. To inspire
7 environmentally sound product and packaging decisions manufacturers
8 must be informed of the cost of properly handling postconsumer
9 materials. Achievement of the target recycling rate is necessary for
10 the state to reach its waste recycling goals.

11 NEW SECTION. **Sec. 2.** The purpose of this chapter is to:
12 (1) Create an environmental registry identifying manufacturers of
13 packaging that is disposed by means of landfill or incineration in the
14 state;

1 (2) License manufacturers selling or distributing packaging that
2 is disposed in the state;

3 (3) Impose a license fee on manufacturers of packages disposed by
4 means of landfill, incineration, or separate collection;

5 (4) Make funds available to local governments for postconsumer
6 collection of packaging materials requiring subsidy;

7 (5) Establish target recycling rates for packaging materials;

8 (6) Enable local governments to ban a packaging material that does
9 not meet or exceed the target recycling rate for the material, and to
10 prohibit package banning by local governments if state-wide target
11 recycling rates are met.

12 NEW SECTION. **Sec. 3.** Unless the context clearly requires
13 otherwise, the definitions in this section apply throughout this
14 chapter.

15 (1) "Agent" means a wholesaler, distributor, or others in the
16 manufacturer's distribution chain.

17 (2) "Closure" means the part of a package used to seal the package
18 that must, in order to function properly, be made out of a material
19 other than the material the body of the package is made from.

20 (3) "Department" means the department of ecology.

21 (4) "Manufacturer" means a person, firm, or company responsible for
22 selecting the primary packaging material of a product delivered to
23 retail establishments.

24 (5) "Net cost of collection and disposal" means the cost to state
25 and local governments of collecting, processing, marketing, and
26 disposing of materials in the solid waste stream, and includes system
27 operating costs, but is decreased by the amount of revenue gained from
28 the sale of materials.

1 (6) "Net package weight" means the package tare weight less the per
2 package weight of postconsumer recovered material.

3 (7) "Package" means a container providing a means of marketing,
4 protecting, or handling a product and includes a unit package, an
5 intermediate package, and a shipping container as defined in "Standard
6 Terminology of Packaging and Distribution Environments" (American
7 Society for Testing and Materials, designation: D996-90). "Package"
8 also includes unsealed receptacles used as carrying cases, crates,
9 cups, pails, rigid foil and other trays, wrappers and wrapping films,
10 bags, and tubs.

11 (8) "Packaging material" means residue remaining after the package
12 has served its intended purpose.

13 (9) "Postconsumer recovered material" means only those products
14 generated by a business or consumer that have served their intended end
15 uses, and that are diverted from the solid waste stream. "Postconsumer
16 recovered material" includes broker recovered material, but does not
17 include mill broke that is an in-plant production waste that returns to
18 the production line and does not leave the possession of the producer.

19 (10) "Primary package" means the package that has direct contact
20 with the product.

21 (11) "Recycling survey" means the survey conducted by the
22 department pursuant to RCW 70.95.280.

23 (12) "Retail establishment" means a product distribution center
24 where products are sold for consumption or use.

25 (13) "Single use packaging" means a package used less than five
26 times in the same or a similar distribution system.

27 (14) "Tare weight" means only the weight of the package and does
28 not include the product.

29 (15) "Target recycling rate" means the recycling rate set in the
30 state solid waste management plan.

1 (16) "Weighted cost of disposal by landfill and incineration" means
2 the dollar value resulting from the following series of computations:

3 (a) The total number of tons disposed in the state by means of
4 incineration, multiplied by the per ton cost of incineration; added to

5 (b) The total number of tons disposed in the state by means of
6 landfilling, multiplied by the per ton cost of landfilling; and

7 (c) Divide the result by the total number of tons disposed by means
8 of incineration and landfilling.

9 (17) "Wholesaler" means a person, individual, or company who
10 distributes goods to a retail establishment in this state.

11 NEW SECTION. **Sec. 4.** The department shall create an
12 environmental registry identifying the manufacturers of packaging that
13 is disposed by means of landfill or incineration in the state. For
14 each manufacturer, the following is identified:

15 (1) Manufacturer's name;

16 (2) Manufacturer's address;

17 (3) Manufacturer's chief executive officer if a corporate entity,
18 or owner if not a corporate entity;

19 (4) Manufacturer's telephone number; and

20 (5) The single use packages distributed in this state by the
21 manufacturer.

22 NEW SECTION. **Sec. 5.** (1) No later than one year after the
23 effective date of this act, the department shall develop and send to
24 each manufacturer on the registry a certificate of distribution. The
25 certificate of distribution shall identify each package distributed in
26 this state by the manufacturer or an agent of the manufacturer. For
27 each single use package, the certificate shall identify the following:

1 (a) The types of materials, excluding closures, used in the package
2 as identified in the recycling survey.

3 (i) If more than one material is used, the package is easily
4 separated into component parts for recycling, and the material
5 comprising each component is identified in the recycling survey, then
6 the material used in each component part is identified; or

7 (ii) If the package is made of more than one material that is not
8 easily separated into component parts for recycling, or if one of the
9 materials is not identified in the recycling survey, the material is
10 identified as a composite material;

11 (b) The tare weight of each material listed in (a) of this
12 subsection;

13 (c) The per package weight of postconsumer recovered material used
14 in each package. If the amount of postconsumer recovered material
15 varies from batch to batch, the average annual weight per package
16 weight may be used; however, each manufacturer must use a single,
17 consistent accounting method; and

18 (d) The number of units distributed in the state.

19 (i) If the exact number of units is unknown, a range is specified;
20 or

21 (ii) If a range is unknown, the manufacturer shall specify that the
22 range is unknown and the department shall identify the number of units.

23 (2) The certificate of distribution is signed by an authorized
24 official of the manufacturing company. The department shall retain the
25 certificate of distribution for as long as the package or packaging
26 component is in use. A copy of the certificate of distribution is kept
27 on file by the manufacturer.

28 (3) If the package manufacturer uses a new or reformulated package
29 that changes the information provided in the certificate of
30 distribution, the manufacturer shall provide an amended or new

1 certificate of distribution for the reformulated or new package, or
2 packaging component.

3 (4) The manufacturer shall complete and return the certificate of
4 distribution to the department within sixty days.

5 (5) The department may suspend the sale of a package if a
6 manufacturer has failed to respond, within the time period, to a
7 request by the department for a certificate of distribution under this
8 section.

9 (6) If the manufacturer is required to complete other certification
10 for the department, the department shall develop one comprehensive
11 form.

12 NEW SECTION. **Sec. 6.** The annual solid waste management plan
13 developed by the department under RCW 70.95.260 shall identify the
14 recycling rates for each of the materials identified in the annual
15 recycling survey that are necessary for the state to achieve the
16 recycling rate identified under RCW 70.95.010.

17 NEW SECTION. **Sec. 7.** (1) Effective July 1, 1992,
18 manufacturers shall not distribute in this state, without a license, a
19 single use package.

20 (2) A package made of a material that is recycled at the target
21 recycling rate set under section 6 of this act and that requires no
22 operating subsidy under section 9 of this act is exempt from subsection
23 (1) of this section. If packages are made from two or more materials
24 that can be easily separated for recycling and that target recycling
25 rates are established for, an exemption to subsection (1) of this
26 section is granted for the components of the package made from
27 materials that are recycled at the target recycling rate.

1 (3) The department shall determine the license fee for distribution
2 of each package. The license fee shall reflect the net cost of
3 collection and disposal of each packaging material. Proceeds of
4 license fees paid on each material are expended exclusively to mitigate
5 environmental damage caused by that material. In establishing the fee
6 schedule for each material, the following costs are incorporated into
7 the license fee for each packaging material:

8 (a) The net marginal cost of source separated material collection,
9 handling, and processing of each package;

10 (b) The weighted cost of disposal by landfill and incineration of
11 each package; and

12 (c) The cost to state agencies of market development activities
13 undertaken for each material.

14 During the first three years of the license fee program a fee is not
15 assessed on the weight of postconsumer recovered materials used in each
16 package.

17 (4) The fee schedule is updated at least once every three years and
18 may be updated more frequently if the department deems it appropriate.

19 (5) The department shall inform manufacturers on the environmental
20 registry of the per ton cost of disposing of each material assessed.

21 (6) Wholesalers who distribute products in this state shall, upon
22 request of the department, submit a list of products distributed, and
23 shall identify the number of units sold in this state during the
24 preceding year. The department shall use this information only for the
25 purpose of auditing the number of units of a product distributed in the
26 state. Results of analysis on each product may be shared with the
27 product manufacturer and the department of revenue. Results are made
28 public only if the manufacturer appeals the license fee under
29 subsection (8) of this section. The department shall develop
30 guidelines for reporting to protect proprietary information.

1 (7)(a) The department shall inform the department of revenue of the
2 manufacturer names and packages identified on the environmental
3 registry of package manufacturers, and shall identify, for each
4 package, the information required to establish the environmental
5 license fees due, including the following:

6 (i) Manufacturer;

7 (ii) Package;

8 (iii) Materials; and

9 (iv) Materials recycled at target recycling rates; or

10 (b) If no material, other than the closure, is recycled at target
11 recycling rates then the following information is also provided:

12 (i) Package tare weight;

13 (ii) Amount of postconsumer recovered material, if any, not subject
14 to fee;

15 (iii) Net package weight;

16 (iv) Number of packaging units per ton;

17 (v) Net cost of collection and disposal per ton of material; and

18 (vi) Net cost of collection and disposal per packaging unit.

19 (8) The department of revenue shall provide each manufacturer on
20 the registry with a summary of the information identified under
21 subsection (7) of this section, and shall identify the total license
22 fee on all packages due and payable by the manufacturer. The
23 manufacturer shall have sixty days to appeal the amount of the license
24 fee. Each appeal must specify the issue of fact on which the appeal is
25 based.

26 (9) The department of revenue shall annually collect, from the
27 manufacturers, the fees identified under this section. After payment
28 of fees, a license is issued to manufacturers for a period of one year.
29 If a licensed package is reformulated or changed, or if the department

1 updates the fee schedule, the manufacturer shall submit an amended
2 certificate of distribution.

3 NEW SECTION. **Sec. 8.** There is established an account within
4 the state treasury known as the predisposal account. There is a
5 separate subaccount for each major material type. All assessments
6 collected under this chapter are deposited in the predisposal account
7 and used for administration and implementation of this chapter.

8 NEW SECTION. **Sec. 9.** (1) Pursuant to the recommendations
9 identified in the state solid waste management plan, the department
10 shall develop a list of possible collection programs for each
11 postconsumer material requiring subsidy. For each program, the
12 following attributes are identified:

13 (a) Material targeted for collection;

14 (b) Program service area; and

15 (c) Projected program cost including:

16 (i) Capital costs;

17 (ii) Operating costs; and

18 (iii) The per ton cost of diverting the targeted material.

19 Multimaterial collection programs may be considered. Grants are made
20 to collection programs that divert the greatest amount of the targeted
21 material for the least cost.

22 (2) If maintaining the target recycling rate requires a continuing
23 operational subsidy, grants may be made to accomplish this purpose.
24 Grants are made to collection programs that divert the greatest amount
25 of material for the least cost.

1 NEW SECTION. **Sec. 10.** Nothing in this chapter shall preclude
2 a manufacturer or an association of manufacturers from voluntary
3 efforts to establish systems to recover postconsumer materials.

4 NEW SECTION. **Sec. 11.** A state agency that expends funds on
5 market development activities for postconsumer recovered materials
6 shall track the costs of the activities by material type and shall
7 report them to the department.

8 NEW SECTION. **Sec. 12.** Sections 1 through 11 of this act shall
9 constitute a new chapter in Title 70 RCW.