AN ACT Relating to creating jobs by increasing the recycling of discarded carpet; amending RCW 42.56.270; reenacting and amending RCW 43.21B.110 and 43.21B.110; adding a new chapter to Title 70 RCW; prescribing penalties; providing an effective date; and providing an expiration date.

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

NEW SECTION. Sec. 1. The legislature finds that:

(1) In 2009, discarded carpet and padding equaled 3.6 percent of Washington's disposed waste by weight. The estimated recycling rate for carpet and padding in Washington was less than 2.3 percent in 2009.

(2) The recycling industry accounted for about four thousand five hundred jobs in Washington in 2008, and despite the recession, new and expanded recycling operations have opened.

(3) The annual economic value of recyclables collected in Washington was estimated at three hundred twenty million dollars in 2008.

(4) Washington manufacturers gain access to recycled feedstock materials, such as plastics, for their products.
(5) Certainty about availability of recycled feedstock materials is significantly increased by product stewardship requirements.

(6) The national, voluntary, and industry-led approach to carpet stewardship, the 2002 memorandum of understanding for carpet stewardship, has not met its agreed-upon goal of forty percent carpet recovery and has only achieved a four to five percent recovery rate nationwide.

(7) Numerous products can be manufactured from recycled carpet, including carpet backing and backing components, carpet fiber, carpet underlayment, plastics and engineered materials, and erosion control products.

(8) The recycling of carpet into useful products is a developing enterprise that has a current geographic focus in the Puget Sound/Interstate 5 corridor. Both locations that receive used carpet and businesses that create new products from this used carpet are concentrated in this geographic area. Significant private sector investment has been made in new technology to recycle types of carpet that have been challenging to recycle in the past. These investments are partially predicated upon the continuing availability of used carpet in quantities sufficient to justify the initial capital outlays. An active carpet recycling infrastructure currently exists in the Puget Sound/Interstate 5 corridor to an extent not yet seen in other parts of the state.

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

(1) "Brand" means a name, symbol, word, or mark that identifies the carpet, rather than its components, and attributes the carpet to the owner or licensee of the brand as the manufacturer.

(2) "Carpet" means a manufactured article that is used in commercial or residential buildings affixed or placed on the floor or building walking surface as a decorative or functional building interior or exterior feature and that is primarily constructed of a top visible surface of natural or synthetic face fibers or yarns or tufts attached to a backing system derived from synthetic or natural materials. "Carpet" includes, but is not limited to, a commercial or a residential broadloom carpet or modular carpet tiles. "Carpet"
includes a pad or underlayment used in conjunction with a carpet.  
"Carpet" does not include handmade rugs, area rugs, or mats.

(3) "Carpet stewardship organization" or "organization" means 
either of the following:
  (a) An organization appointed by one or more producers to act as an 
agent on behalf of the producer to design, submit, and administer a 
product stewardship program under this chapter; or 
  (b) A carpet producer that complies with this chapter as an 
individual producer.

(4) "Consumer" means a purchaser, owner, or lessee of carpet, 
including a person, business, corporation, limited partnership, 
nonprofit organization, or governmental entity. "Consumer" does not 
include a retailer or wholesaler.

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

(6) "Discarded carpet" means carpet that is no longer used for its 
manufactured purpose. However, the term does not include carpet scrap 
generated during carpet production.

(7) "Market share" means the percentage of carpet by weight 
identified for an individual producer that is sold in or into the state 
during the reporting period as compared to all carpet identified for 
all producers by weight sold in or into the state during the same 
reporting period.

(8) "Producer" means the person who:
  (a) Has legal ownership of the brand, brand name, or cobrand of the 
carpet sold in or into the state. "Producer" does not include a 
retailer who puts its store label on a carpet. If the carpet has a 
retail brand label, the manufacturer is considered the producer; 
  (b) Imports carpet branded or manufactured by a producer that meets 
the definition under (a) of this subsection and has no physical 
presence in the United States; or 
  (c) Sells carpet, at retail or wholesale, and elects to fulfill the 
responsibilities of the producer for that carpet.

(9) "Product stewardship program" or "program" means the methods, 
systems, and services financed and provided by producers of carpet sold 
in or into the state including collecting, transporting, processing, 
and recycling of discarded carpet.

(10) "Product stewardship program plan" or "plan" means a detailed
plan describing the manner in which a product stewardship program will be implemented.

(11) "Recycling" means transforming or remanufacturing waste materials into a finished product for use other than combustion, landfill disposal, or incineration.

(12) "Reporting period" means the period commencing January 1st and ending December 31st in the same calendar year.

(13) "Retailer" means every person who sells or offers for sale, new carpet in the state.

(14) "Reuse" means donating or selling collected carpet back into the market for its original intended use in which the carpet retains its original purpose and performance characteristics.

(15) "Sell" or "sales" means a transfer of title of a carpet for consideration, including a remote sale conducted through a sales outlet, catalog, internet web site, or similar electronic means. For purposes of this chapter, "sell" or "sales" includes a lease through which a carpet is provided to a consumer by a producer, wholesaler, or retailer.

(16) "Source separated" means carpet that has been separated or segregated from all other wastes, including but not limited to all municipal solid waste, at the place where the carpet is discarded.

(17) "Wholesaler" means every person who purchases, sells, or distributes new carpet in the state in a sale that is not a retail sale, and in which the carpet is intended to be resold.

NEW SECTION. Sec. 3. (1) By January 1, 2013, a producer of carpet sold in or into the state shall participate in a carpet stewardship organization. A producer shall notify the department of its participation in a carpet stewardship organization.

(2)(a) By January 31, 2014, every carpet stewardship organization must submit to the department sales data from the years 2003 through 2012. The data must include the amount of carpet sold in or into the state by square yards and weight in pounds, separating data for residential and commercial carpet, providing a total for each and an overall total, of each producer participating in the carpet stewardship organization.

(b) Beginning January 31, 2014, and annually thereafter in an annual report as required in section 6 of this act, every carpet
stewardship organization must submit to the department the previous year's sales data that includes the amount of carpet sold in or into the state by square yards and weight in pounds, for residential and commercial carpet, providing a total for each and an overall total, of each producer participating in the carpet stewardship organization. Sales data may be prorated by population from national or state data.

(c) On March 1, 2013, each carpet stewardship organization must submit an initial fee of one thousand dollars for each producer represented to cover the one-time cost of the department's estimated first annual fee as established in section 9 of this act.

(3)(a) A carpet stewardship organization shall submit to the department a product stewardship program plan that is consistent with the requirements of this section by January 1, 2014. A carpet stewardship organization with a department-approved product stewardship program plan must implement their program by January 1, 2015.

(b) A carpet stewardship organization must consult with stakeholders, including retailers, installers, collectors, recyclers, and local governments during the development of the product stewardship program plan.

(4) A product stewardship program must:

(a) Have in place methods and systems for financing the program and collecting, transporting, processing for recycling, and recycling discarded carpet. The financing system must be sufficient for capital costs of the program and for the product stewardship program to fund: Education and outreach efforts; administrative and operational activities; and other efforts that will advance the purposes of this chapter;

(b) Be provided throughout the state at no cost to all entities that remove carpet, including but not limited to carpet and flooring installers, and construction and demolition companies. The program may not charge a fee at the time discarded carpet is collected. Collection services must include convenient locations for entities that remove carpet and, at minimum, one collection location open to the public per one hundred thousand residents in each county, and a minimum of one collection site open to the public per county. A collection site in an adjacent county may be deemed adequate after consultation with stakeholders described in subsection (3)(b) of this section and (g) of this subsection;
(c) Include:

(i) Interim milestones, described by the stewardship organization, that will:

(A) Increase the recycling of discarded carpet throughout the state;

(B) Increase the recyclability of carpets; and

(C) Incentivize the market growth of secondary products made from discarded carpet; and

(ii) Four-year performance goals for:

(A) Collecting and recycling discarded carpet;

(B) Managing discarded carpet consistent with the state's solid waste priorities; and

(C) Collecting source separated carpet that meets acceptable standards as required under subsection (7)(a) of this section;

(d) Describe how discarded carpet will be collected and recycled throughout the state, including a list of collection locations, processors, and recyclers that will be used in the program;

(e) Identify each producer participating in the product stewardship program and provide contact information for each producer and the brands covered by each producer;

(f) Include a proposal for achieving and maintaining performance standards, beyond the four-year period described in (c) of this subsection;

(g) Provide opportunities for public comment on the product stewardship program, a summary of comments received, and responses to those comments both prior to its submittal as a plan to the department and annually thereafter; and

(h) Include education and outreach efforts to consumers, commercial building owners, carpet installation contractors, and retailers throughout the state to promote their participation in achieving the product stewardship program's performance goals. At a minimum, the education and outreach efforts must include:

(i) Written materials and templates of materials for reproduction to be provided to retailers, local governments, carpet installation contractors, and consumers at the time of purchase and delivery; and

(ii) Information addressing the condition of acceptable carpet as required in subsection (7)(a) of this section. The product stewardship program must provide the templates and materials free of charge.
5 (5) The carpet stewardship organization may offer incentives or payments to collectors if necessary to ensure the carpet stewardship program requirements are met, as described in subsection (4) of this section.

6 (6) Carpet stewardship organizations shall implement programs beginning:

7 (a) January 1, 2015, for the counties of King, Pierce, Snohomish, and Thurston;

8 (b) January 1, 2018, for the counties of Kitsap, Whatcom, Skagit, Island, San Juan, Clallam, Jefferson, Mason, Grays Harbor, Lewis, Cowlitz, and Clark;

9 (c) January 1, 2019, for the counties of Chelan, Kittitas, Benton, Franklin, Walla Walla, Yakima, Grant, Douglas, Adams, Lincoln, and Spokane; and

10 (d) January 1, 2020, for the counties of Asotin, Columbia, Ferry, Garfield, Klickitat, Pacific, Pend Oreille, Skamania, Stevens, Wahkiakum, and Whitman in the cities where a carpet retailer is located, with a minimum of one collection site open to the public per county.

11 (7) The program must:

12 (a) Accept all carpet that is source separated, dry, free of paint, mold, mildew, asbestos, construction or demolition debris, and other hazardous materials or chemicals that render the carpet unrecyclable; and

13 (b) Ensure that carpet collected meeting the standards in (a) of this subsection is processed for recycling or reuse and a minimum of sixty percent of the processed carpet material by weight is recycled or reused.

14 (8) The carpet stewardship organization administering a product stewardship program shall notify the department within thirty days after instituting a change that affects any part of requirements in subsection (4) of this section to an approved product stewardship program.

NEW SECTION. Sec. 4. The department or its designee may inspect or review audits of carpet stewardship organizations and of carpet processing and recycling facilities used to fulfill the requirements of a product stewardship program.
NEW SECTION. Sec. 5. (1) Within sixty days after receiving a product stewardship program plan for approval, the department shall review the program, determine whether the program complies with the requirements of this chapter, and notify the carpet stewardship organization of its decision to approve or not approve the program.

(2) A product stewardship program may not be approved if the department determines that the program will have the effect of reducing the level of recycling of discarded carpet that has been achieved since the effective date of this section or if the product stewardship program does not meet program elements as required in section 3 of this act.

(3) The department shall describe the reasons for its decision to not approve a product stewardship program in the notice to a carpet stewardship organization. The carpet stewardship organization shall revise and resubmit the product stewardship program within sixty days after receiving notice that the program was not approved. The department shall review and approve or not approve the revised product stewardship program within sixty days after receipt.

(4) On and after January 1, 2015, a product stewardship program not approved by the department is not in compliance with this chapter. The department must list any producer relying on such a product stewardship program as noncompliant with the requirements of this chapter.

(5) The department must make all approved product stewardship programs and annual reports available for public review on the department's web site and at the department's headquarters. By January 1, 2015, and no later than January 1st annually thereafter, the department shall post a notice on its web site listing producers that are and are not in compliance with this chapter.

(6) The decision of the department to approve or to not approve a product stewardship program under this section is appealable to the pollution control hearings board as provided in RCW 43.21B.130.

NEW SECTION. Sec. 6. (1) Beginning January 31, 2016, and each year thereafter, a carpet stewardship organization must submit to the department an annual report describing its activities during the preceding calendar year to achieve the purposes of this chapter.

(2) The report must demonstrate that the carpet stewardship organization's product stewardship program has met the performance
goals of the program including achieving continuous meaningful improvement in the rate of recycling discarded carpet subject to the program. Further, the report must include all of the following:

(a) A description of how the product stewardship program has implemented all of its required elements, including collecting, transporting, processing, and recycling activities and how the program has been implemented throughout the state as required in section 3(6) of this act;

(b) The amount of carpet sold in the state, by square yards and weight in pounds, for residential and commercial carpet and provide an overall total, during the reporting period. Sales data may be prorated by population from national or state data;

(c) The names and locations of carpet collectors used by the product stewardship program during the reporting period;

(d) The amount of discarded carpet recycled and reused, by weight in pounds, during the reporting period;

(e) The names and locations of carpet processing and recycling facilities used by the product stewardship program and recycled and reused end uses of collected carpet by weight, during the reporting period;

(f) The amount of discarded carpet collected but not recycled or reused, by weight, and its ultimate disposition;

(g) The total cost of implementing the product stewardship program and an evaluation of the financing system;

(h) An evaluation of the effectiveness of the product stewardship program, and anticipated steps, if needed, to improve performance throughout the state;

(i) Examples of educational materials that were provided to consumers, commercial building owners, carpet installation contractors, and retailers during the reporting period and a summary of outreach efforts, including timeline and frequency; and

(j) A summary of public comments received regarding the product stewardship program and response to those comments.

(3) Proprietary information submitted to the department under this chapter is exempt from public disclosure.

NEW SECTION. Sec. 7. (1) Beginning March 1, 2013, a producer that
(2) No producer may sell or offer for sale carpet in or into the state unless the producer of the carpet is participating in an approved product stewardship program. The department shall send a written warning and a copy of this chapter and any rules adopted to implement this chapter to a producer that is not participating in an approved program. The written warning must inform the producer that it must participate in an approved program within thirty days of the notice.

(3) A producer that is not listed on the department's internet web site as required in section 5(5) of this act, but demonstrates to the satisfaction of the department that the producer is in compliance with this chapter before the next notice is required to be posted, may request a certification letter from the department stating that the producer is in compliance with this chapter. The letter constitutes proof of compliance with this chapter.

(4) No one may distribute or sell carpet in or into the state from producers who are not in compliance with this chapter. Wholesalers, distributors, and retailers in the state who have: (a) Possession of carpet on the date that restrictions on the sale of carpet become effective may exhaust their existing stock through sales; and (b) specified and bid for a project prior to the effective date of this section or prior to the date a producer has been determined to be out of compliance may complete the specified project.

(5) The department shall serve, or send with delivery confirmation, a written warning explaining the violation to any person known to be distributing or selling carpet in or into the state from producers who are not participating in a product stewardship program or who are not in compliance with this chapter.

NEW SECTION. Sec. 8. (1) A carpet stewardship organization that incurs costs in excess of five thousand dollars in collecting, handling, recycling, or properly disposing of carpet manufactured by a producer that (a) is required by section 3 of this act to operate or participate in a carpet stewardship organization and did not at the time the carpet was collected, and was not covered by the participation by another manufacturer in a stewardship program and (b) can reasonably
be identified from a brand or marking on the carpet or by other
information, may bring a civil action or actions to recover costs,
damages, and fees specified in subsection (2) of this section, and if
successful shall be awarded these amounts.

(2) In an action brought pursuant to subsection (1) of this
section, the plaintiff carpet stewardship organization shall recover
from the defendant carpet manufacturer the costs the plaintiff incurred
in collecting, handling, recycling, or properly disposing of carpet
reasonably identified as having originated from the defendant carpet
manufacturer, plus an amount of damages equal to no less than three
times those costs, plus the plaintiff's attorneys' fees and costs of
litigation.

(3) An action to recover the costs specified in this section may be
brought in any court in the state, without regard to the amount in
dispute.

NEW SECTION. Sec. 9. (1) Beginning February 1, 2014, and annually
thereafter, the department shall establish an annual fee for each
carpet stewardship organization sufficient to cover only the
department's costs of administering and enforcing carpet stewardship
programs under this chapter. The total amount of annual fees collected
must not exceed the amount necessary to recover costs incurred by the
department in connection with the administration and oversight of the
requirements of this chapter. Any unspent money from the previous year
must be retained in the carpet product stewardship account created in
section 12 of this act and applied to reduce the payments by carpet
stewardship organizations in the following year. The department shall
establish a fee based on market share data provided by carpet
stewardship organizations as required in section 3(2)(b) of this act.

(2) The department must estimate the annual fee for the period of
July 1st through June 30th and notify the carpet stewardship
organizations by March 1st of each year. The department must collect
the annual fee from the carpet stewardship organizations by June 30th.

NEW SECTION. Sec. 10. Any person acquiring a producer, or who has
acquired a producer, has all responsibility for the acquired producer's
carpet, including carpet manufactured prior to July 1, 2012, unless
that responsibility remains with another entity under the purchase agreement. The acquiring producer must provide the department a letter from the entity that accepts responsibility for the carpet.

NEW SECTION. Sec. 11. 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 such service itself or by contract under RCW 81.77.020.

NEW SECTION. Sec. 12. The carpet product stewardship account is created in the state treasury. All receipts received by the department from carpet stewardship organizations must be deposited in the account. Expenditures from the account may be used by the department only for administering this chapter. Moneys in the account may be spent only after appropriation.

Sec. 13. RCW 43.21B.110 and 2010 c 210 s 7 and 2010 c 84 s 2 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 70.94 RCW, local health departments, the department of natural resources, the department of fish and wildlife, and the parks and recreation commission:

(a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431, 70.105.080, 70.107.050, 76.09.170, 77.55.291, 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, 70.94.211, 70.94.332, section 5 of this act, 70.105.095, 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

(c) A final decision by the department or director made under chapter 183, Laws of 2009.

(d) 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 70.95.300.

(e) Decisions of local health departments regarding the grant or denial of solid waste permits pursuant to chapter 70.95 RCW.

(f) Decisions of local health departments regarding the issuance and enforcement of permits to use or dispose of biosolids under RCW 70.95J.080.

(g) 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 70.95.205.

(h) 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.

(i) 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.

(j) 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).

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

(l) Decisions of the department of fish and wildlife to issue, deny, condition, or modify a hydraulic project approval permit under chapter 77.55 RCW.

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

(n) Decisions of a state agency that is 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 under RCW 79.100.120.
(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 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, 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.
((e) Appeals of decisions by the department as provided in chapter 43.21L RCW.)

(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.

Sec. 14. RCW 43.21B.110 and 2010 c 210 s 8 and 2010 c 84 s 3 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 70.94 RCW, local health departments, the department of natural resources, the department of fish and wildlife, and the parks and recreation commission:

(a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431, 70.105.080, 70.107.050, 76.09.170, 77.55.291, 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, 70.94.211, 70.94.332, section 5 of this act, 70.105.095, 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 70.95.300.

(d) Decisions of local health departments regarding the grant or denial of solid waste permits pursuant to chapter 70.95 RCW.

(e) Decisions of local health departments regarding the issuance and enforcement of permits to use or dispose of biosolids under RCW 70.95J.080.

(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 70.95.205.

(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.

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

(m) Decisions of a state agency that is 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 under RCW 79.100.120.

(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 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, 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.

(((e) Appeals of decisions by the department as provided in chapter 43.21L RCW.)))

(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.

NEW SECTION. Sec. 15. By December 1, 2017, the department shall report to the appropriate committees of the legislature concerning the status of adoption and implementation of carpet stewardship programs and recommendations for revisions to improve the rate of carpet recycling and other goals of this chapter.

Sec. 16. RCW 42.56.270 and 2011 1st sp.s. c 14 s 15 are each amended to read as follows:

The following financial, commercial, and proprietary information is exempt from disclosure under this chapter:

(1) Valuable formulae, designs, drawings, computer source code or object code, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss;

(2) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (a) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (b) highway construction or improvement as required by RCW 47.28.070;

(3) Financial and commercial information and records supplied by private persons pertaining to export services provided under chapters 43.163 and 53.31 RCW, and by persons pertaining to export projects under RCW 43.23.035;

(4) Financial and commercial information and records supplied by businesses or individuals during application for loans or program
services provided by chapters 43.325, 43.163, 43.160, 43.330, and 43.168 RCW, or during application for economic development loans or program services provided by any local agency;

(5) Financial information, business plans, examination reports, and any information produced or obtained in evaluating or examining a business and industrial development corporation organized or seeking certification under chapter 31.24 RCW;

(6) Financial and commercial information supplied to the state investment board by any person when the information relates to the investment of public trust or retirement funds and when disclosure would result in loss to such funds or in private loss to the providers of this information;

(7) Financial and valuable trade information under RCW 51.36.120;

(8) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the clean Washington center in applications for, or delivery of, program services under chapter 70.95H RCW;

(9) Financial and commercial information requested by the public stadium authority from any person or organization that leases or uses the stadium and exhibition center as defined in RCW 36.102.010;

(10)(a) Financial information, including but not limited to account numbers and values, and other identification numbers supplied by or on behalf of a person, firm, corporation, limited liability company, partnership, or other entity related to an application for a horse racing license submitted pursuant to RCW 67.16.260(1)(b), liquor license, gambling license, or lottery retail license;

(b) Internal control documents, independent auditors' reports and financial statements, and supporting documents: (i) Of house-banked social card game licensees required by the gambling commission pursuant to rules adopted under chapter 9.46 RCW; or (ii) submitted by tribes with an approved tribal/state compact for class III gaming;

(11) Proprietary data, trade secrets, or other information that relates to: (a) A vendor's unique methods of conducting business; (b) data unique to the product or services of the vendor; or (c) determining prices or rates to be charged for services, submitted by any vendor to the department of social and health services for purposes of the development, acquisition, or implementation of state purchased health care as defined in RCW 41.05.011;
(12)(a) When supplied to and in the records of the department of commerce:

(i) Financial and proprietary information collected from any person and provided to the department of commerce pursuant to RCW 43.330.050(8); and

(ii) Financial or proprietary information collected from any person and provided to the department of commerce or the office of the governor in connection with the siting, recruitment, expansion, retention, or relocation of that person's business and until a siting decision is made, identifying information of any person supplying information under this subsection and the locations being considered for siting, relocation, or expansion of a business;

(b) When developed by the department of commerce based on information as described in (a)(i) of this subsection, any work product is not exempt from disclosure;

(c) For the purposes of this subsection, "siting decision" means the decision to acquire or not to acquire a site;

(d) If there is no written contact for a period of sixty days to the department of commerce from a person connected with siting, recruitment, expansion, retention, or relocation of that person's business, information described in (a)(ii) of this subsection will be available to the public under this chapter;

(13) Financial and proprietary information submitted to or obtained by the department of ecology or the authority created under chapter 70.95N RCW to implement chapter 70.95N RCW;

(14) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the life sciences discovery fund authority in applications for, or delivery of, grants under chapter 43.350 RCW, to the extent that such information, if revealed, would reasonably be expected to result in private loss to the providers of this information;

(15) Financial and commercial information provided as evidence to the department of licensing as required by RCW 19.112.110 or 19.112.120, except information disclosed in aggregate form that does not permit the identification of information related to individual fuel licensees;

(16) Any production records, mineral assessments, and trade secrets
submitted by a permit holder, mine operator, or landowner to the department of natural resources under RCW 78.44.085;

(17)(a) Farm plans developed by conservation districts, unless permission to release the farm plan is granted by the landowner or operator who requested the plan, or the farm plan is used for the application or issuance of a permit;

(b) Farm plans developed under chapter 90.48 RCW and not under the federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject to RCW 42.56.610 and 90.64.190;

(18) Financial, commercial, operations, and technical and research information and data submitted to or obtained by a health sciences and services authority in applications for, or delivery of, grants under RCW 35.104.010 through 35.104.060, to the extent that such information, if revealed, would reasonably be expected to result in private loss to providers of this information;

(19) Information gathered under chapter 19.85 RCW or RCW 34.05.328 that can be identified to a particular business;

(20) Financial and commercial information submitted to or obtained by the University of Washington, other than information the university is required to disclose under RCW 28B.20.150, when the information relates to investments in private funds, to the extent that such information, if revealed, would reasonably be expected to result in loss to the University of Washington consolidated endowment fund or to result in private loss to the providers of this information; (and)

(21) Financial, commercial, operations, and technical and research information and data submitted to or obtained by innovate Washington in applications for, or delivery of, grants and loans under chapter 43.333 RCW, to the extent that such information, if revealed, would reasonably be expected to result in private loss to the providers of this information; and

(22) Proprietary data submitted to the department of ecology under section 6(3) of this act.

NEW SECTION. Sec. 17. 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.
NEW SECTION. Sec. 18. Section 13 of this act expires June 30, 2019.

NEW SECTION. Sec. 19. Section 14 of this act takes effect June 30, 2019.

NEW SECTION. Sec. 20. Sections 1 through 12 and 15 of this act constitute a new chapter in Title 70 RCW.

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