

SENATE BILL 5591

State of Washington **52nd Legislature** **1991 Regular Session**

By Senators Metcalf, Amondson, A. Smith and Roach.

Read first time February 8, 1991. Referred to Committee on Environment & Natural Resources.

1 AN ACT Relating to the reduction of solid waste through recycling;
2 amending RCW 70.95C.120, 43.155.020, 70.93.020, 70.93.030, 70.93.130,
3 70.93.150, and 70.93.180; adding new sections to chapter 43.131 RCW;
4 adding new sections to chapter 70.95C RCW; adding a new section to
5 chapter 43.168 RCW; adding a new section to chapter 70.93 RCW; adding
6 a new section to chapter 82.18 RCW; adding new chapters to Title 70
7 RCW; adding a new chapter to Title 82 RCW; creating new sections;
8 repealing RCW 43.160.077; making appropriations; providing an effective
9 date; and declaring an emergency.

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

11

PART I

12

CENTER FOR RECYCLING MARKETS DEVELOPMENT

13

NEW SECTION. **Sec. 101.** (1) The legislature finds that:

1 (a) Recycling conserves energy and landfill space, provides jobs
2 and valuable feedstock materials to industry, and promotes health and
3 environmental protection;

4 (b) Seventy-eight percent of the citizens of the state actively
5 participate in recycling programs and Washington currently has the
6 highest recycling rate in the nation;

7 (c) The current supply of many recycled commodities far exceeds the
8 demand for such commodities;

9 (d) Many local governments and private entities cumulatively
10 affect, and are affected by, the market for recycled commodities but
11 have limited jurisdiction and cannot adequately address the problems of
12 market development that are complex, wide-ranging, and regional in
13 nature; and

14 (e) The private sector has the greatest capacity for creating and
15 expanding markets for recycled commodities, and the development of
16 private markets for recycled commodities is in the public interest.

17 (2) It is therefore the policy of the state to create a single
18 entity to be known as the center for recycling markets development to
19 develop new, and expand existing, markets for recycled commodities.

20 NEW SECTION. **Sec. 102.** There is created the center for
21 recycling markets development within the department of trade and
22 economic development. As used in this chapter, "center" means the
23 center for recycling markets development. The director of the
24 department may choose to operate the center as a unit within the
25 department's business assistance center.

26 NEW SECTION. **Sec. 103.** The purpose of the center is to provide
27 or facilitate basic and applied research and development, business
28 assistance, public education, and policy analysis in furthering the

1 development of markets for recycled products. As used in this chapter,
2 market development consists of public and private activities that are
3 used to overcome impediments preventing full use of secondary materials
4 diverted from the waste stream, and that encourage and expand use of
5 those materials and subsequent products.

6 NEW SECTION. **Sec. 104.** The center shall:

7 (1) Provide targeted business assistance to recycling processors
8 and manufacturers, including:

9 (a) Development of business plans;

10 (b) Market research and planning information;

11 (c) Access to financing programs;

12 (d) Referral and information on market conditions;

13 (e) Information of new technology and product development;

14 (2) Negotiate voluntary agreements with manufacturers to increase
15 the use of recycled materials in product development;

16 (3) Support research and development to stimulate new technologies
17 and products using recycled materials;

18 (4) Undertake an integrated, comprehensive education effort to
19 promote processing, manufacturing, and purchase of recycled products,
20 including:

21 (a) Providing information to end users on the availability and
22 benefits of using recycled materials;

23 (b) Providing information and referral services on recycled
24 material markets;

25 (c) Providing information on new research and technologies that may
26 be used by local businesses and governments; and

27 (d) Participating in projects to demonstrate new market uses or
28 applications for recycled products;

1 (5) Assisting the departments of ecology and general administration
2 in the development of consistent definitions and standards on recycled
3 content, product performance, and availability; and

4 (6) Undertaking studies on the unmet capital needs of reprocessing
5 and manufacturing firms using recycled materials.

6 NEW SECTION. **Sec. 105.** The center shall place a high priority
7 upon commodities comprising a large proportion of the state's waste
8 stream and for which further development of markets for recycled
9 products are needed. Such commodities include but are not limited to
10 mixed-waste paper, yard waste and other organic waste, plastics, tires,
11 oil, and glass.

12 NEW SECTION. **Sec. 106.** In order to carry out its
13 responsibilities under this chapter, the center may:

14 (1) Receive such gifts, grants, funds, fees, and endowments, in
15 trust or otherwise, for the use and benefit of the purposes of the
16 center. The center may expend the same or any income therefrom
17 according to the terms of the gifts, grants, or endowments;

18 (2) Initiate, conduct, or contract for studies and searches
19 relating to market development for recyclable materials, including but
20 not limited to applied research, technology transfer, and pilot
21 demonstration projects;

22 (3) Obtain and disseminate information relating to market
23 development for recyclable materials from other state and local
24 agencies;

25 (4) Enter into, amend, and terminate contracts with individuals,
26 corporations, or search institutions for the purposes of this chapter;

27 (5) Provide grants to local governments and nonprofit
28 organizations;

1 (6) Provide business and marketing assistance to public and private
2 sector entities within the state; and

3 (7) Evaluate, analyze, and make recommendations on state policies
4 that may affect markets for recyclable materials.

5 NEW SECTION. **Sec. 107.** The center shall be administered by a
6 manager appointed by the director of the department of trade and
7 economic development.

8 NEW SECTION. **Sec. 108.** The center shall solicit financial
9 contributions and support from manufacturing industries and other
10 private sector sources, foundations, and grants from governmental
11 sources to assist in conducting its activities. It may also use
12 separately appropriated funds of the department of trade and economic
13 development for the center's activities.

14 NEW SECTION. **Sec. 109.** The center's activities shall be
15 conducted with the assistance of an advisory committee having members
16 representing the private sector, recycling businesses, local
17 government, and other state agencies. The center shall endeavor to
18 include representatives on the committee having an involvement with the
19 commodities chosen by the center for high priority activities.

20 NEW SECTION. **Sec. 110.** Sections 101 through 109 of this act
21 shall constitute a new chapter in Title 70 RCW.

22 NEW SECTION. **Sec. 111.** A new section is added to chapter 43.131
23 RCW to read as follows:

24 The center for recycling markets and its powers and duties shall be
25 terminated June 30, 1996.

1 restrictions, taxes upon product packaging, or both, to achieve
2 progressively greater reduction of product packaging and increased
3 recyclability of packaging. It is further the intent to concurrently
4 adopt provisions reserving exclusively to the state the ability to ban
5 the sale of products or product packaging, or the taxing of such
6 products, for purposes relating to solid waste disposal or recycling.

7 NEW SECTION. **Sec. 202.** (1) The center for recycling markets
8 development, with the assistance of the department of ecology, shall
9 develop packaging policy recommendations regarding:

10 (a) Increasing the institution of reusable packaging systems in
11 which a package is used several times for the same or substantially
12 similar purpose;

13 (b) Reducing the reliance on single-use, disposable packaging;

14 (c) Reducing the volume or weight, or both, of product packaging;

15 (d) Reducing the toxicity of product packaging;

16 (e) Increasing product packaging recycling; and

17 (f) Developing education strategies to increase public awareness of
18 the contribution of packaging to solid waste problems.

19 (2) In conducting packaging policy activities, the center may form
20 an advisory committee consisting of industry, public, and government
21 agency representatives.

22 NEW SECTION. **Sec. 203.** (1) The center shall conduct a study of
23 the costs of disposal of products and product packaging. The center
24 shall seek the assistance of the department of ecology regarding
25 disposal of products and packaging in this state, and existing levels
26 of recycling of such material. The study shall include recommended
27 target levels for recycling as well as postconsumer recovered material
28 content in such products, and timelines to achieve such target levels.

1 (2) The center shall make recommendations in the study for methods
2 of encouraging or requiring increased recycling and postconsumer
3 recovered material content in products and product packaging, including
4 proposals for taxation based upon the product or product packaging
5 disposal cost.

6 (3) The study shall be submitted to the legislative committees on
7 the environment by December 1, 1992.

8 NEW SECTION. **Sec. 204.** Unless the context clearly requires
9 otherwise, the definitions in this section apply throughout this
10 chapter.

11 (1) "Package" means a container providing a means of marketing,
12 protecting, or handling a product and shall include a unit package, an
13 intermediate package, and a shipping container as defined in ASTM D996.
14 "Package" also means and includes unsealed receptacles such as carrying
15 cases, crates, cups, pails, rigid foil and other trays, wrappers and
16 wrapping films, bags, and tubs.

17 (2) "Manufacturer" means a person, firm, or corporation who applies
18 a package to a product for distribution or sale.

19 (3) "Packaging component" means an individual assembled part of a
20 package such as, but not limited to, any interior or exterior blocking,
21 bracing, cushioning, weatherproofing, exterior strapping, coatings,
22 closures, inks, and labels.

23 NEW SECTION. **Sec. 205.** (1) As soon as feasible but not later
24 than two years after the effective date of this section, no package or
25 packaging component may be offered for sale or for promotional purposes
26 by its manufacturer or distributor in the state of Washington, that
27 includes, in the package itself or in any packaging component, inks,
28 dyes, pigments, adhesives, stabilizers, or any other additives, any

1 lead, cadmium, mercury, or hexavalent chromium that has been
2 intentionally introduced as an element during manufacturing or
3 distribution as opposed to the incidental presence of any of these
4 elements.

5 (2) As soon as feasible but not later than two years after the
6 effective date of this section, no product may be offered for sale or
7 for promotional purposes by its manufacturer or distributor in the
8 state of Washington in a package that includes, in the package itself
9 or in any of its packaging components, inks, dyes, pigments, adhesives,
10 stabilizers, or any other additives, any lead, cadmium, mercury, or
11 hexavalent chromium that has been intentionally introduced as an
12 element during manufacturing or distribution as opposed to the
13 incidental presence of any of these elements.

14 (3) The sum of the concentration levels of lead, cadmium, mercury,
15 and hexavalent chromium present in any package or packaging component
16 shall not exceed the following:

17 (a) 600 parts per million by weight effective two years after the
18 effective date of this section;

19 (b) 250 parts per million by weight effective three years after the
20 effective date of this section; and

21 (c) 100 parts per million by weight effective four years after the
22 effective date of this section.

23 NEW SECTION. **Sec. 206.** All packages and packaging components
24 shall be subject to this chapter except the following:

25 (1) Those packages or package components with a code indicating
26 date of manufacture that were manufactured prior to the effective date
27 of this section;

28 (2) Those packages or packaging components that have been purchased
29 by, delivered to, or are possessed by a retailer on or before twenty-

1 four months following the effective date of this section to permit
2 opportunity to clear existing inventory of the proscribed packaging
3 material;

4 (3) Those packages or packaging components to which lead, cadmium,
5 mercury, or hexavalent chromium have been added in the manufacturing,
6 forming, printing, or distribution process in order to comply with
7 health or safety requirements of federal law or for which there is no
8 feasible alternative; or

9 (4) Packages and packaging components that would not exceed the
10 maximum contaminant levels set forth in section 205(3) of this act but
11 for the addition of postconsumer materials; and provided that the
12 exemption for this subsection shall expire six years after the
13 effective date of this section.

14 NEW SECTION. **Sec. 207.** As soon as feasible but not later than
15 two years after the effective date of this section, a certificate of
16 compliance stating that a package or packaging component is in
17 compliance with the requirements of this chapter shall be developed by
18 its manufacturer, provided, however, where compliance is achieved under
19 the exemption or exemptions provided in section 206 (3) or (4) of this
20 act, the certificate shall state the specific basis upon which the
21 exemption is claimed. The certificate of compliance shall be signed by
22 an authorized official of the manufacturing company. The certificate
23 of compliance shall be kept on file by the manufacturer for as long as
24 the package or packaging component is in use, and for three years from
25 the date of the last sale or distribution by the manufacturer.
26 Certificates of compliance, or copies thereof, shall be furnished to
27 the department of ecology upon request within sixty days. If
28 manufacturers are required under any other state statute to provide a

1 certificate of compliance, one certificate may be developed containing
2 all required information.

3 If the manufacturer or supplier of the package or packaging
4 component reformulates or creates a new package or packaging component,
5 the manufacturer shall develop an amended or new certificate of
6 compliance for the reformulated or new package or packaging component.

7 NEW SECTION. **Sec. 208.** Requests from a member of the public for
8 any certificate of compliance shall be:

9 (1) Made in writing to the department of ecology;

10 (2) Made specific as to package or packaging component information
11 requested; and

12 (3) Responded to by the department of ecology within ninety days.

13 NEW SECTION. **Sec. 209.** The department of ecology may suspend
14 the sale of any package for which a manufacturer has failed to respond
15 to a request by the department for a certificate of compliance within
16 the allotted period of time pursuant to section 207 of this act.

17 NEW SECTION. **Sec. 210.** The center shall conduct a public
18 education program aimed toward achieving voluntary changes in consumer,
19 retailer, distributor, and manufacturer behavior regarding packaging
20 waste reduction and recycling. The program should be coordinated with
21 education programs administered by the department of ecology in order
22 to avoid duplication. The program may include a variety of media and
23 other strategies, such as in-store displays and signing, manufacturer
24 logos, government awards programs, and participation of trade
25 associations.

1 NEW SECTION. **Sec. 211.** The packaging subcommittee of the solid
2 waste advisory committee shall review the effectiveness of this chapter
3 in its third annual report to the legislature. The report shall
4 contain recommendations to add other toxic substances contained in
5 packaging to the list set forth in this chapter, including but not
6 limited to mutagens, carcinogens, and teratogens, in order to further
7 reduce the toxicity of packaging waste, and shall contain a
8 recommendation regarding imposition of penalty for violation of section
9 205 of this act, and shall contain a recommendation whether to continue
10 the recycling exemption as it is provided for in section 206 of this
11 act.

12 **Sec. 212.** RCW 70.95C.120 and 1989 c 431 s 54 are each amended to
13 read as follows:

14 The office of waste reduction shall develop, in consultation with
15 the superintendent of public instruction, an awards program to
16 ~~((achieve waste reduction and))~~ promote recycling in the public
17 schools, grades kindergarten through high school. The office shall
18 develop guidelines for program development and implementation. Each
19 public school shall implement a ~~((waste reduction and))~~ recycling
20 program conforming to guidelines developed by the office.

21 For the purpose of granting awards, the office may group schools
22 into not more than three classes, based upon student population,
23 distance to markets for recyclable materials, and other criteria, as
24 deemed appropriate by the office. Except as otherwise provided, five
25 or more awards shall be granted to each of the three classes. Each
26 award shall be a sum of not less than two thousand dollars nor more
27 than five thousand dollars. Awards shall be granted each year to the
28 schools that achieve the greatest levels of ~~((waste reduction and))~~
29 recycling. ~~((Each))~~ A single award ~~((shall be of a sum))~~ of not less

1 than ten thousand dollars shall be presented to the school having the
2 best recycling program as determined by the office. (~~The office shall~~
3 ~~also develop recommendations for an awards program for waste reduction~~
4 ~~in the public schools. The office shall submit these recommendations~~
5 ~~to the appropriate standing committees in the house of representatives~~
6 ~~and senate on or before November 30, 1989.~~)

7 The superintendent of public instruction shall distribute
8 guidelines and other materials developed by the office to implement
9 programs to reduce and recycle waste generated in administrative
10 offices, classrooms, laboratories, cafeterias, and maintenance
11 operations.

12 NEW SECTION. Sec. 213. Sections 201, 202, and 204 through 210
13 of this act shall constitute a new chapter in Title 70 RCW.

14 PART III
15 PLASTICS

16 NEW SECTION. Sec. 301. (1) The center for recycling markets
17 development shall target its Washington business location promotional
18 programs toward a goal of successfully siting a major mixed waste
19 plastics recycling facility in the state by 1995. The desired facility
20 is one capable of handling a range of low and high-grade plastics
21 typically found in municipal solid waste. The center shall promote the
22 tax incentives provided by sections 401 through 407 of this act, and
23 the provisions for collection of plastics recyclables in sections 303
24 through 305 of this act.

25 (2) The center shall seek to enter a memorandum of agreement with
26 a facility proponent setting forth a proposed date to begin facility
27 operation and describing the facility's requirements for waste

1 plastics, including volume, grade, and other information. Upon
2 execution of such a memorandum, the center shall forward this
3 information and request the department of ecology to institute rule
4 making in accordance with section 302 of this act.

5 (3) The center shall encourage potential facility proponents to
6 locate within the highly populated areas of the state to facilitate the
7 economical operation of plastics recycling programs provided in section
8 302 of this act.

9 NEW SECTION. **Sec. 302.** (1) Using the criteria and standards of
10 this section, the department of ecology shall consider the adoption of
11 rules requiring certain counties and cities to revise their
12 comprehensive solid waste management plans adopted under RCW 70.95.090.
13 Upon receipt of a request by the center for recycling markets
14 development to institute rule making, the department shall make
15 preliminary determinations regarding the following, based upon
16 information submitted by the center and other sources:

17 (a) Whether mandatory collection of source-separated plastics
18 recyclables and other recycling programs are necessary for the proposed
19 plastics recycling facility to be economically viable; and

20 (b) Whether the population density and other factors affecting the
21 generation of solid waste and costs of collection and transportation of
22 source-separated recyclables support plastics recycling programs.

23 (2) Where the department makes a positive preliminary finding on
24 both elements of subsection (1) of this section, it shall institute
25 proposed rule making pursuant to chapter 34.05 RCW requiring plastics
26 recycling programs to be incorporated into the comprehensive solid
27 waste management programs of such cities and counties covering such
28 portion of the geographic area near the proposed facility as to provide
29 an adequate potential source of supply of waste plastics for the

1 facility. Nothing in this chapter or the department's rules shall
2 require that plastics recyclables collected pursuant to requirements of
3 local comprehensive plans be delivered, sold, or otherwise provided to
4 any particular person or facility.

5 (3) The department may withdraw the proposed rules where the public
6 comments provide information sufficient for the department to determine
7 that the proposed recycling programs will not be adequate for the
8 proposed recycling facility's needs. The department may also withdraw
9 the proposed rules at any time the center advises it that the proposed
10 facility will not be operational substantially within the timeframes
11 indicated in the memorandum of agreement.

12 (4) The department's rules may limit required recycling programs to
13 those grades or types of plastics that will be used by the proposed
14 recycling facility.

15 (5) The rules shall require plastics recycling programs in the
16 designated areas for the lesser period of four years or the life of the
17 plastics recycling facility. Any local government may petition the
18 department to amend or terminate the rules after four years based upon
19 the adverse economic impacts of the recycling programs upon its
20 participating residents.

21 NEW SECTION. **Sec. 303.** Unless the context clearly requires
22 otherwise, the definitions in this section apply throughout sections
23 304 and 305 of this act.

24 (1) "Container," unless otherwise specified, refers to "rigid
25 plastic container" or "plastic bottle" as those terms are defined in
26 this section.

27 (2) "Distributors" means those persons engaged in the distribution
28 of packaged goods for sale in the state of Washington, including
29 manufacturers, wholesalers, and retailers.

1 (3) "Label" means a molded, imprinted, or raised symbol on or near
2 the bottom of a plastic container or bottle.

3 (4) "Person" means an individual, sole proprietor, partnership,
4 association, or other legal entity.

5 (5) "Plastic" means a material made of polymeric organic compounds
6 and additives that can be shaped by flow.

7 (6) "Plastic bottle" means a plastic container intended for single
8 use that has a neck that is smaller than the body of the container,
9 accepts a screw-type, snap cap, or other closure and has a capacity of
10 sixteen fluid ounces or more, but less than five gallons.

11 (7) "Rigid plastic container" means a formed or molded container,
12 other than a bottle, intended for single use, composed predominantly of
13 plastic resin, and having a relatively inflexible finite shape or form
14 with a capacity of eight ounces or more but less than five gallons.

15 NEW SECTION. **Sec. 304.** (1) The provisions of this section and
16 any rules adopted under it shall be interpreted to conform with nation-
17 wide plastics industry standards.

18 (2) On or after January 1, 1992, no person may distribute, sell, or
19 offer for sale in this state a plastic bottle or rigid plastic
20 container unless the container is labeled with a code identifying the
21 appropriate resin type used to produce the structure of the container.
22 The code shall consist of a number placed within three triangulated
23 arrows and letters placed below the triangle of arrows. The
24 triangulated arrows shall be equilateral, formed by three arrows with
25 the apex of each point of the triangle at the midpoint of each arrow,
26 rounded with a short radius. The pointer (arrowhead) of each arrow
27 shall be at the midpoint of each side of the triangle with a short gap
28 separating the pointer from the base of the adjacent arrow. The
29 triangle, formed by the three arrows curved at their midpoints shall

1 depict a clockwise path around the code number. The numbers and
2 letters used shall be as follows:

3 (a) 1. = PETE (polyethylene terephthalate)

4 (b) 2. = HDPE (high density polyethylene)

5 (c) 3. = V (vinyl)

6 (d) 4. = LDPE (low density polyethylene)

7 (e) 5. = PP (polypropylene)

8 (f) 6. = PS (polystyrene)

9 (g) 7. = OTHER

10 NEW SECTION. **Sec. 305.** (1) After being notified that a plastic
11 container does not comply with section 304 of this act, a person who
12 violates section 304 of this act is subject to a civil penalty of fifty
13 dollars for each violation up to a maximum of five hundred dollars and
14 may be enjoined from continuing violations. Each distribution
15 constitutes a separate offense.

16 (2) Distributors shall have two years from the effective date of
17 this section to clear current inventory, delivered or received and held
18 in their possession as of the effective date of this section.
19 Distributors shall not be subject to subsection (1) of this section for
20 sale of such inventory.

21 NEW SECTION. **Sec. 306.** Sections 301 through 305 of this act are
22 each added to chapter 70.95C RCW.

23 PART IV

24 FINANCIAL INCENTIVES

25 NEW SECTION. **Sec. 401.** Unless a different meaning is plainly

1 required by the context, the definitions in this section apply
2 throughout this chapter.

3 (1) "Certificate" means a recycling exemption and credit
4 certificate issued by the department of revenue pursuant to section 405
5 of this act.

6 (2) "Department" means the department of revenue.

7 (3) "Facility" means the plant and equipment for the primary
8 purpose of processing, sorting, or manufacturing of products from solid
9 waste. "Facility" does not include fixed installations, vehicles, or
10 equipment for the primary purpose of the transportation of solid waste
11 or recyclable materials.

12 (4) "Person" has the meaning provided in RCW 1.16.080.

13 (5) "Solid waste" means garbage, refuse, sludge, or other
14 materials or articles following consumer purchase or use, and includes
15 materials or articles resulting as an end-product from industrial,
16 commercial, mining, or agricultural operations.

17 NEW SECTION. **Sec. 402.** (1) The original acquisition of a
18 facility by the holder of a certificate is exempt from sales tax
19 imposed by chapter 82.08 RCW and use tax imposed by chapter 82.12 RCW
20 if the due date for payment of such taxes is subsequent to the
21 effective date of the certificate. The exemption from this section
22 shall not apply to servicing, maintenance, repairs, and replacement of
23 parts after a facility is complete and placed in operation.

24 (2) The exemption provided by this section shall be available for
25 taxes otherwise due between the effective date of this section and
26 December 31, 1995.

27 (3) The total of all exempt taxes allowed under this section shall
28 not exceed five hundred thousand dollars for a taxable year. The
29 department shall implement this limitation by requiring an estimate of

1 the exemption proposed to be claimed in an application for a
2 certification pursuant to section 405 of this act, and denying the
3 issuance of a certificate that would result in exceeding this
4 limitation.

5 (4) The total exemption that a person may claim in a taxable year
6 under this section shall not exceed fifty thousand dollars. However,
7 where the total value of all exemptions estimated in applications for
8 certifications which are issued do not exceed five hundred thousand
9 dollars for the taxable year, the department may increase the allowable
10 exemptions among the certificates upon a proportional basis up to a
11 total of five hundred thousand dollars. In such circumstances the
12 allowable exemption shall be designated in the certificate.

13 NEW SECTION. **Sec. 403.** (1) The person holding a certificate
14 shall be allowed a credit against the taxes pursuant to chapter 82.04
15 RCW in the amount allowed by this section and subject to the
16 limitations of this section.

17 (2) The credit shall be ten percent of the purchase price paid
18 during the taxable year for the facility covered by the certificate,
19 but shall not exceed the lesser of the following: (a) Fifty thousand
20 dollars; or (b) fifty percent of the total tax liability of the person
21 under chapter 82.04 RCW.

22 (3) A tax credit not used for the taxable year in which the
23 purchase price for a facility was paid may be carried over for credit
24 against the tax liability under chapter 82.04 RCW in the five
25 succeeding taxable years until the total credit amount is used.

26 (4) The credit allowed by this section may be claimed by taxable
27 years beginning January 1, 1991, and ending December 31, 1995, except
28 any carryover allowed by subsection (3) of this section.

1 (5) The total of credits allowed by this section shall be reduced
2 by the total amount of a federal tax credit actually received by the
3 certificate holder applicable to the facility, and shall be reduced by
4 the amount of a credit claimed under RCW 82.04.435.

5 (6) The total of all credits allowed by this section shall not
6 exceed five hundred thousand dollars for a taxable year. If the
7 applications received by the department under section 405 of this act
8 in a single taxable year exceed five hundred thousand dollars, the
9 department shall determine the dollar amount certified for credits and
10 the priority between applications for certification pursuant to the
11 criteria provided in section 405 of this act.

12 (7) Not less than two hundred fifty thousand dollars of the five
13 hundred thousand dollar annual credits limit shall be allocated to
14 credits claimed where the total costs of acquisition for a qualifying
15 facility are one hundred thousand dollars or less.

16 (8) A credit may not be claimed in a year in which the facility
17 has not operated for a substantial portion of the year.

18 NEW SECTION. **Sec. 404.** If subsequent to the issuance of a
19 certificate for a facility, a determination is made to modify or
20 replace such facility, the holder of the certificate may file an
21 application for a new certificate covering such modified or replacement
22 facility in accordance with the procedures set forth in this chapter
23 for original certificates. An application for a new certificate
24 covering such modified or replacement facility must be filed with the
25 department not later than November 30, 1995. After the issuance by the
26 department of a new certificate, all subsequent tax exemptions and
27 credits for the modified or replacement facility shall be based
28 thereon.

1 NEW SECTION. **Sec. 405.**

(1) For the purpose of implementing the
2 tax exemptions and credits provided by sections 402 and 403 of this
3 act, the department shall establish a certification system pursuant to
4 this section.

(2) An application for a certificate shall be filed with the
5 department not later than November 30, 1995, and in such manner and in
6 such form as may be prescribed by the department by rule. The
7 application shall contain estimated or actual costs, plans, and
8 specifications of the facility, a list describing and showing the cost
9 of all equipment acquired or to be acquired by the applicant as an
10 integral part of the facility, a time schedule for the acquisition and
11 installation or attachment of the facility, and such other information
12 as the department deems necessary to apply the limitations upon tax
13 exemptions and credits in sections 402 and 403 of this act.

(3) A certificate shall not be issued unless first approved by the
15 department of ecology, which shall be given when the department of
16 ecology determines that the facility is designed and is or will be
17 operated primarily for the purpose of processing, sorting, or
18 manufacturing of products from solid waste. The department of ecology
19 shall notify the department of its findings within thirty days of the
20 date on which the application was submitted to it for approval.

(4) The department shall issue a certificate when the department
22 of ecology provides approval under subsection (3) of this section and
23 the department finds that granting of the certificate will not exceed
24 a limitation upon the individual exemption or credit to be claimed or
25 upon the total exemptions or credits to be granted under sections 402
26 and 403 of this act. Where there are pending applications at any time
27 which cumulatively would exceed a limitation upon the total exemptions
28 or credits allowable in a taxable year, the department shall determine
29 the certificates to issue from among the applications upon considering
30

1 the following criteria: (a) The time the application was filed,
2 providing greater consideration to earlier filed applications; (b) the
3 origin of the solid waste to be used in the facility, providing greater
4 consideration to solid waste generated in Washington; (c) the
5 importance of the tax exemption or credit to the successful acquisition
6 and operation of the facility; and (d) the impact of the facility upon
7 solid waste management and the supply of recycled content products. In
8 making this determination the department shall consult with and obtain
9 the comments of the department of ecology.

10 NEW SECTION. **Sec. 406.** (1) The department may issue a
11 certificate under the procedures and criteria of section 405 of this
12 act for the acquisition of a facility for the primary purpose of the
13 recycling of plastics. A qualified facility under this section must be
14 for the primary purpose of producing plastic products for consumer use
15 or modification of solid waste containing plastics to produce a
16 feedstock for plastics manufacturing processes.

17 (2) The holder of a certificate under this section shall be
18 eligible for the exemption under section 402 of this act and the credit
19 under section 403 of this act. The limitation upon the total of
20 exemptions and credits under such sections shall not be applicable to
21 a certificate or certificates issued under this section.

22 (3) An application under this section must be made before November
23 30, 1993. The application shall include the information required under
24 section 406 of this act and additionally shall include a description of
25 the source of plastics solid waste to be used in the facility. Where
26 more than one application is pending, the department, in consultation
27 with the department of ecology, in determining whether to issue a
28 certificate, shall determine whether the described source of plastics

1 solid waste for the proposed facility will be adequate for successful
2 operation of the facility.

3 (4) A certificate shall not be issued under this section if the
4 total of exemptions or credits under this section would exceed the
5 following limitations:

6 (a) One hundred thousand dollars in total exemptions under section
7 402 of this act; and

8 (b) One hundred thousand dollars in total credits under section 403
9 of this act.

10 NEW SECTION. **Sec. 407.** (1) The department may issue an order
11 revoking a certificate issued under section 405 of this act where it
12 determines that:

13 (a) The certification was obtained by fraud or misrepresentation;
14 or

15 (b) The holder of the certificate has failed substantially to
16 operate the facility primarily for the purpose of processing, sorting,
17 or manufacturing of products from solid waste.

18 (2) The certificate holder may appeal the revocation of a
19 certificate as an adjudicatory proceeding pursuant to chapter 34.05
20 RCW.

21 (3) Upon revocation of a certificate under subsection (1)(a) of
22 this section, all prior tax exemptions or credits provided by virtue of
23 the certificate shall be forfeited and the department shall proceed to
24 collect those taxes not paid under sections 402 and 403 of this act,
25 including interest and penalties prescribed by law. No statute of
26 limitations shall operate in the event of fraud or misrepresentation.

27 (4) Upon revocation of a certificate under subsection (1)(b) of
28 this section, the certificate holder shall be denied any further tax

1 exemptions or credits under sections 402 and 403 of this act, from and
2 after the date that the order of revocation becomes final.

3 NEW SECTION. **Sec. 408.** A new section is added to chapter 43.168
4 RCW to read as follows:

5 To the extent permitted by federal law, the committee shall place
6 a priority for the provision of grants or loans to local governments
7 for projects meeting the criteria of this chapter, and that
8 additionally assist or provide directly for the recycling of solid
9 waste. This section shall not apply to projects or portions of
10 projects providing for programs, facilities, or systems for the
11 collection of solid waste.

12 **Sec. 409.** RCW 43.155.020 and 1985 c 446 s 8 are each amended to
13 read as follows:

14 Unless the context clearly requires otherwise, the definitions in
15 this section shall apply throughout this chapter.

16 (1) "Board" means the public works board created in RCW 43.155.030.

17 (2) "Department" means the department of community development.

18 (3) "Financing guarantees" means the pledge of money in the public
19 works assistance account, or money to be received by the public works
20 assistance account, to the repayment of all or a portion of the
21 principal of or interest on obligations issued by local governments to
22 finance public works projects.

23 (4) "Local governments" means cities, towns, counties, special
24 purpose districts, and any other municipal corporations or quasi-
25 municipal corporations in the state excluding school districts and port
26 districts.

27 (5) "Public works project" means a project of a local government
28 for the planning, acquisition, construction, repair, reconstruction,

1 replacement, rehabilitation, or improvement of streets and roads,
2 bridges, water systems, ((or)) storm and sanitary sewage systems, and
3 facilities for sorting, processing, or remanufacturing of recyclable
4 materials, including the sale or disposition of recyclable materials to
5 recycling businesses.

6 (6) "Technical assistance" means training and other services
7 provided to local governments to: (a) Help such local governments
8 plan, apply, and qualify for loans and financing guarantees from the
9 board, and (b) help local governments improve their ability to plan
10 for, finance, acquire, construct, repair, replace, rehabilitate, and
11 maintain public facilities.

12 NEW SECTION. Sec. 410. The department of trade and economic
13 development shall conduct a study of state tax, regulatory, and other
14 laws that provide an unwarranted preference for the use of virgin
15 materials over recyclable materials in product manufacturing. The
16 department shall submit the report, including recommendations for
17 statutory changes, to the governor and the legislature no later than
18 December 1, 1991.

19 NEW SECTION. Sec. 411. RCW 43.160.077 and 1989 c 431 s 63 are
20 each repealed.

21 NEW SECTION. Sec. 412. Sections 401 through 407 of this act
22 shall constitute a new chapter in Title 82 RCW.

23 PART V

24 FUNDING

1 NEW SECTION. **Sec. 501.** There is created the recycling markets
2 development account in the state treasury. All assessments and tax
3 revenues collected or received pursuant to sections 504 and 508 of this
4 act shall be used for the purposes of chapter 70.____ RCW (sections 101
5 through 109 of this act) and other recycling markets development
6 activities. All funds in the account shall be subject to
7 appropriation. All interest in the account shall accrue to the general
8 fund.

9 **Sec. 502.** RCW 70.93.020 and 1979 c 94 s 2 are each amended to read
10 as follows:

11 The purpose of this chapter is to accomplish litter control and
12 stimulate private recycling programs throughout this state by
13 delegating to the department of ecology the authority to: (1) Conduct
14 a permanent and continuous program to control and remove litter from
15 this state to the maximum practical extent possible; (2) recover and
16 recycle waste materials related to litter and littering; (3) foster
17 private recycling and markets for recyclable materials; and (4)
18 increase public awareness of the need for recycling and litter control.
19 It is further the intent and purpose of this chapter to create jobs for
20 employment of youth in litter cleanup and related activities and to
21 stimulate and encourage small, private recycling centers. This program
22 shall include the compatible goal of recovery of recyclable materials
23 to conserve energy and natural resources wherever practicable. Every
24 other department of state government and all local governmental units
25 and agencies of this state shall cooperate with the department of
26 ecology in the administration and enforcement of this chapter. The
27 intent of this chapter is to add to and to coordinate existing
28 recycling and litter control and removal efforts and not terminate or
29 supplant such efforts.

1 **Sec. 503.** RCW 70.93.030 and 1979 c 94 s 3 are each amended to read
2 as follows:

3 As used in this chapter unless the context indicates otherwise:

4 (1) "Department" means the department of ecology;

5 (2) "Director" means the director of the department of ecology;

6 (3) "Disposable package or container" means all packages or
7 containers defined as such by rules and regulations adopted by the
8 department of ecology;

9 (4) "Litter" means all waste material including but not limited to
10 disposable packages or containers thrown or deposited as herein
11 prohibited but not including the wastes of the primary processes of
12 mining, logging, sawmilling, farming, or manufacturing;

13 (5) "Litter bag" means a bag, sack, or other container made of any
14 material which is large enough to serve as a receptacle for litter
15 inside the vehicle or watercraft of any person. It is not necessarily
16 limited to the state approved litter bag but must be similar in size
17 and capacity;

18 (6) "Litter receptacle" means those containers adopted by the
19 department of ecology and which may be standardized as to size, shape,
20 capacity, and color and which shall bear the state anti-litter symbol,
21 as well as any other receptacles suitable for the depositing of litter;

22 (7) "Person" means any political subdivision, government agency,
23 municipality, industry, public or private corporation, copartnership,
24 association, firm, individual, or other entity whatsoever;

25 (8) "Recycling" means ~~((the process of separating, cleansing,~~
26 ~~treating, and reconstituting used or discarded litter-related materials~~
27 ~~for the purpose of recovering and reusing the resources contained~~
28 ~~therein)) transforming or remanufacturing waste materials into usable~~
29 ~~or marketable materials for use other than landfill disposal or~~
30 incineration;

1 (9) "Recycling center" means a central collection point for
2 recyclable materials;

3 (10) "Vehicle" includes every device capable of being moved upon a
4 public highway and in, upon, or by which any persons or property is or
5 may be transported or drawn upon a public highway, excepting devices
6 moved by human or animal power or used exclusively upon stationary
7 rails or tracks;

8 (11) "Watercraft" means any boat, ship, vessel, barge, or other
9 floating craft;

10 (12) "Public place" means any area that is used or held out for use
11 by the public whether owned or operated by public or private interests.

12 NEW SECTION. **Sec. 504.** A new section is added to chapter 70.93
13 RCW to read as follows:

14 In addition to the assessment imposed in RCW 70.93.120, there is
15 hereby levied and there shall be collected by the department of revenue
16 from every person engaging within this state in business as a
17 manufacturer and/or making sales at wholesale and/or making sales at
18 retail, an annual litter assessment equal to the value of products
19 manufactured and sold within this state, including by-products,
20 multiplied by two and one-half thousandths of one percent in the case
21 of manufacturers, and equal to the gross proceeds of the sales of the
22 business within this state multiplied by two and one-half thousandths
23 of one percent in the case of sales at wholesale and/or at retail.

24 **Sec. 505.** RCW 70.93.130 and 1971 ex.s. c 307 s 13 are each amended
25 to read as follows:

26 Because it is the express purpose of this chapter to accomplish
27 effective litter control within the state of Washington and because it
28 is a further purpose of this chapter to allocate a portion of the cost

1 of administering it to those industries whose products including the
2 packages, wrappings, and containers thereof, are reasonably related to
3 the litter problem, in arriving at the amount upon which the assessment
4 under RCW 70.93.120 is to be calculated only the value of products or
5 the gross proceeds of sales of products falling into the following
6 categories shall be included:

- 7 (1) Food for human or pet consumption.
- 8 (2) Groceries.
- 9 (3) Cigarettes and tobacco products.
- 10 (4) Soft drinks and carbonated waters.
- 11 (5) Beer and other malt beverages.
- 12 (6) Wine.
- 13 (7) Newspapers and magazines.
- 14 (8) Household paper and paper products.
- 15 (9) Glass containers.
- 16 (10) Metal containers.
- 17 (11) Plastic or fiber containers made of synthetic material.
- 18 (12) Cleaning agents and toiletries.
- 19 (13) Nondrug drugstore sundry products.

20 **Sec. 506.** RCW 70.93.150 and 1971 ex.s. c 307 s 15 are each amended
21 to read as follows:

22 "Sold within this state" or "sales of the business within this
23 state" as used in RCW 70.93.120 and in section 504 of this 1991 act
24 shall mean all sales of retailers engaged in business within this state
25 and all sales of products for use or consumption within this state in
26 the case of manufacturers and wholesalers.

27 **Sec. 507.** RCW 70.93.180 and 1985 c 57 s 68 are each amended to
28 read as follows:

1 There is hereby created an account within the state treasury to be
2 known as the "litter control account". All assessments, fines, bail
3 forfeitures, and other funds collected or received pursuant to ((~~this~~
4 ~~chapter~~)) RCW 70.93.120 and 70.93.230 shall be deposited in the litter
5 control account and used for the administration and implementation of
6 this chapter except as required to be otherwise distributed under RCW
7 70.93.070. All earnings of investments of balances in the litter
8 control account shall be credited to the general fund.

9 NEW SECTION. Sec. 508. A new section is added to chapter 82.18
10 RCW to read as follows:

11 (1) There is imposed on each person using the services of a solid
12 waste collection business a solid waste collection tax of twenty-five
13 one-hundredths of one percent of the consideration charged for the
14 services. This tax shall be applied only to a service charge for
15 actual solid waste collection services that are provided. For
16 residential collection service only, the tax shall apply to the lesser
17 of the consideration charged for the services or:

18 (a) For customers with less than two-can service, the first eight
19 dollars of the monthly charge for the services;

20 (b) For customers with two-can service or more, the first twelve
21 dollars of the monthly charge for the services.

22 (2) Money collected under this section shall be held in trust until
23 paid to the state. Money received by the state shall be deposited in
24 the recycling markets development account created by section 501 of
25 this act.

26 (3) This section expires July 1, 1997.

27 NEW SECTION. Sec. 509. Part headings as used in this act
28 constitute no part of the law.

1 NEW SECTION. **Sec. 510.** Section 508 of this act is necessary for
2 the immediate preservation of the public peace, health, or safety, or
3 support of the state government and its existing public institutions,
4 and shall take effect July 1, 1991.

5 NEW SECTION. **Sec. 511.** The sum of dollars, or as
6 much thereof as may be necessary, is appropriated for the biennium
7 ending June 30, 1993, from the recycling markets development account to
8 the department of trade and economic development for the purposes of
9 this act.

10 NEW SECTION. **Sec. 512.** The sum of dollars, or as
11 much thereof as may be necessary, is appropriated for the biennium
12 ending June 30, 1993, from the recycling markets development account to
13 the department of ecology for the purposes of this act.