

---

**SUBSTITUTE HOUSE BILL 1085**

---

**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** House Environment & Energy (originally sponsored by Representatives Mena, Bateman, Reed, Fitzgibbon, Ramel, Peterson, Pollet, Berry, Walen, Doglio, Macri, Simmons, Thai, Cortes, Kloba, and Ormsby)

1 AN ACT Relating to reducing plastic pollution; amending RCW  
2 43.21B.110 and 43.21B.300; adding a new section to chapter 19.27 RCW;  
3 adding new sections to chapter 70A.245 RCW; creating new sections;  
4 and prescribing penalties.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that it is in the  
7 public interest to reduce unnecessary plastic waste and sources of  
8 plastic pollution in the environment, especially where less-polluting  
9 and more sustainable alternatives to plastic products and packaging  
10 are available. In this act, the legislature intends to reduce three  
11 such sources of plastic and associated pollution:

12 (1) Single-use plastic water bottles, which frequently end up as  
13 litter;

14 (2) The small plastic containers, wrappers, and packaging for  
15 personal health and beauty products, which are still often provided  
16 in lodging establishments but easily substituted by bulk dispensers  
17 and which are difficult to recycle in current systems; and

18 (3) Certain thin-walled or soft-shell floating extruded or  
19 expanded plastic foam structures, which frequently degrade in the  
20 environment and contribute to small and microplastic pollution of  
21 marine and shoreline environments.

1        NEW SECTION.    **Sec. 2.**    A new section is added to chapter 19.27  
2    RCW to read as follows:

3        (1)    In any construction subject to the requirements of this  
4    chapter in which a drinking fountain is required under the  
5    international building code as amended and adopted by the building  
6    code council, the rules adopted by the building code council must  
7    also require the provision of a bottle filling station, or a combined  
8    bottle filling station and drinking fountain for each drinking  
9    fountain that is required.

10       (2)    The rules required under this section must take effect and be  
11    implemented by July 1, 2026, and may be periodically updated  
12    thereafter.

13       (3)    For the purposes of this section, "bottle filling station"  
14    means a plumbing fixture connected to the potable water distribution  
15    system and sanitary drainage system that is designed and intended for  
16    filling personal use drinking water bottles or containers not less  
17    than 10 inches (254 millimeters) in height. A bottle filling station  
18    may be separate from or integral to a drinking fountain and may  
19    incorporate a water filter and a cooling system for chilling the  
20    drinking water.

21       NEW SECTION.    **Sec. 3.**    A new section is added to chapter 70A.245  
22    RCW to read as follows:

23       (1)    Beginning January 1, 2024, it is prohibited to sell,  
24    distribute, install, or arrange for the installation of in or into  
25    Washington state:

26       (a)    Overwater structures containing expanded or extruded plastic  
27    foam that is not fully enclosed and contained in a shell made of  
28    plastic with a minimum thickness of 0.15 inches, concrete, aluminum,  
29    or steel; and

30       (b)    Blocks or floats containing or comprised of expanded or  
31    extruded plastic foam that are not fully enclosed and contained in a  
32    shell made of plastic with a minimum thickness of 0.15 inches,  
33    concrete, aluminum, or steel, and that are intended for use in or in  
34    conjunction with overwater structures.

35       (2)(a)    The department may adopt rules to implement, administer,  
36    and enforce this section.

37       (b)    A person in violation of this section is subject to a civil  
38    penalty for each violation in an amount not to exceed \$10,000.

1 (c) Penalties collected under this section must be deposited in  
2 the model toxics control operating account created in RCW  
3 70A.305.180.

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

6 (3) For the purposes of this section, overwater structures do not  
7 include floating homes or floating on-water residences, as those  
8 terms are defined in RCW 90.58.270, but do include docks, floats,  
9 walkways, or other accessory overwater structures associated with  
10 floating homes or floating on-water residences.

11 (4) Nothing in this section applies to any dock sold,  
12 distributed, or installed prior to January 1, 2024.

13 NEW SECTION. **Sec. 4.** A new section is added to chapter 70A.245  
14 RCW to read as follows:

15 (1)(a) A lodging establishment may not provide a personal health  
16 or beauty product in a small plastic personal health or beauty  
17 product container, a plastic wrapper, or any other single-use plastic  
18 packaging to a person staying in a lodging unit or within bathrooms  
19 shared by the public or guests. A lodging establishment may make  
20 products restricted under this subsection available to a person upon  
21 request.

22 (b) The requirements of (a) of this subsection apply beginning  
23 January 1, 2027, for lodging establishments with 50 or more lodging  
24 units, and beginning January 1, 2028, for lodging establishments with  
25 less than 50 lodging units.

26 (c)(i) Nothing in this subsection restricts the use of plastic  
27 refillable bulk health or beauty product dispensers.

28 (ii) Nothing in this subsection:

29 (A) Restricts the use of single-use health or beauty product  
30 containers, wrappers, or packaging that are not made with plastic; or

31 (B) Requires the use of refillable bulk health or beauty product  
32 dispensers.

33 (2)(a) The department must issue at least one notice of violation  
34 by certified mail to the owner or operator of a lodging establishment  
35 prior to assessing a penalty under (b) of this subsection.

36 (b) For the first and subsequent penalized violations by the  
37 owner or operator of a lodging establishment, the department may  
38 issue a civil penalty of up to \$500 for each day the lodging  
39 establishment provides personal health or beauty products in

1 violation of this section. The department may not issue penalties to  
2 a lodging establishment in excess of \$2,000 annually.

3 (c) Penalties collected under this section must be deposited in  
4 the model toxics control operating account created in RCW  
5 70A.305.180.

6 (d) A lodging establishment may appeal penalties assessed under  
7 this subsection to the pollution control hearings board created in  
8 chapter 43.21B RCW within 30 days of assessment.

9 (3)(a) The department may adopt rules to implement, administer,  
10 and enforce this section.

11 (b) The enforcement of this section must be primarily based on  
12 complaints filed with the department. The department must establish a  
13 forum for the filing of complaints, and any person may file  
14 complaints with the department using the forum. The forum established  
15 by the department may include a complaint form on the department's  
16 website, a telephone hotline, or a public outreach strategy relying  
17 upon electronic social media to receive complaints that allege  
18 violations. The department must provide a website with education and  
19 outreach resources that provides information about the requirements  
20 of this section to lodging establishments, consumers, and other  
21 interested individuals.

22 (4) On and after July 23, 2023, a city, town, or county may not  
23 enforce an ordinance, resolution, regulation, or rule relating to  
24 personal health or beauty products in single-use plastic bottles,  
25 wrappers, or packaging provided at lodging establishments.

26 (5) The definitions in this subsection apply throughout this  
27 section unless the context clearly requires otherwise.

28 (a)(i) "Lodging establishment" means an establishment that  
29 contains one or more sleeping room accommodations that are rented or  
30 otherwise provided to the public including, but not limited to, a  
31 hotel, motel, resort, bed and breakfast, inn, timeshare property,  
32 short-term rental, or vacation rental.

33 (ii) "Lodging establishment" does not include a hospital, nursing  
34 home, residential retirement community, prison, jail, homeless  
35 shelter, boarding school, worker housing, or long-term rental.

36 (b) "Lodging unit" means one self-contained unit of a lodging  
37 establishment including, but not limited to, self-contained units  
38 designated by number, letter, or some other method of identification.

39 (c) "Personal health or beauty product" means:

1 (i) Shampoo, hair conditioner, bath soap, body wash, or shower  
2 gel that is intended to serve the same function as body wash or soap,  
3 and that is intended to be applied to or used on the human body in  
4 the shower or bath;

5 (ii) Lotion;

6 (iii) Hand soap; and

7 (iv) Hand sanitizer.

8 (d) "Short-term rental" has the same meaning as defined in RCW  
9 64.37.010.

10 (e) "Small plastic personal health or beauty product container"  
11 means a plastic bottle, tube, sachet, or other plastic container with  
12 less than a six-ounce capacity that is not intended to be reusable by  
13 the end user and that contains a personal health or beauty product.

14 NEW SECTION. **Sec. 5.** (1) By November 1, 2025, the department of  
15 fish and wildlife must conduct or contract for the completion of a  
16 study to assess the durability of air-filled and foam-filled docks,  
17 piers, ramps, and floats made of all materials. The study may not  
18 include floatation devices prohibited in section 3 of this act.

19 (2) The study should assess the following:

20 (a) Durability;

21 (b) The costs associated with the purchase, installation,  
22 replacement, maintenance, and disposal of products;

23 (c) Reuse or recycle potential;

24 (d) Buoyancy;

25 (e) Availability;

26 (f) Transport costs and requirements; and

27 (g) The degree to which flotation containers demonstrate the  
28 ability to securely contain materials within a protective shell.

29 (3) The results of the study must be submitted to the appropriate  
30 committees of the legislature and must include findings and  
31 recommendations.

32 (4) In carrying out the study required under subsection (1) of  
33 this section, the department of fish and wildlife or its contractor  
34 must solicit input from a diverse set of affected stakeholders,  
35 including ports, maritime associations, maritime businesses including  
36 installers of docks or piers, manufacturers of floats, state,  
37 federal, and local government entities, and environmental  
38 organizations.

1       **Sec. 6.** RCW 43.21B.110 and 2022 c 180 s 812 are each amended to  
2 read as follows:

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

10       (a) Civil penalties imposed pursuant to RCW 18.104.155,  
11 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070,  
12 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080,  
13 sections 3 and 4 of this act, 70A.65.200, 70A.455.090, 76.09.170,  
14 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144,  
15 90.56.310, 90.56.330, and 90.64.102.

16       (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,  
17 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070,  
18 70A.245.020, 70A.65.200, 86.16.020, 88.46.070, 90.14.130, 90.46.250,  
19 90.48.120, and 90.56.330.

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

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

30       (e) Decisions of local health departments regarding the issuance  
31 and enforcement of permits to use or dispose of biosolids under RCW  
32 70A.226.090.

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

37       (g) Decisions of local conservation districts related to the  
38 denial of approval or denial of certification of a dairy nutrient  
39 management plan; conditions contained in a plan; application of any  
40 dairy nutrient management practices, standards, methods, and

1 technologies to a particular dairy farm; and failure to adhere to the  
2 plan review and approval timelines in RCW 90.64.026.

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

6 (i) Decisions of the department of natural resources, the  
7 department of fish and wildlife, and the department that are  
8 reviewable under chapter 76.09 RCW, and the department of natural  
9 resources' appeals of county, city, or town objections under RCW  
10 76.09.050(7).

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

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

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

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

24 (n) Decisions of the department of ecology that are appealable  
25 under RCW 70A.245.020 to set recycled minimum postconsumer content  
26 for covered products or to temporarily exclude types of covered  
27 products in plastic containers from minimum postconsumer recycled  
28 content requirements.

29 (o) Orders by the department of ecology under RCW 70A.455.080.

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

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

34 (b) Hearings conducted by the department pursuant to RCW  
35 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,  
36 70A.15.3110, and 90.44.180.

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

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

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

4 **Sec. 7.** RCW 43.21B.300 and 2022 c 180 s 813 are each amended to  
5 read as follows:

6 (1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160,  
7 70A.205.280, 70A.300.090, 70A.20.050, 70A.245.040, 70A.245.050,  
8 70A.245.070, 70A.245.080, sections 3 and 4 of this act, 70A.65.200,  
9 70A.455.090, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310,  
10 90.56.330, and 90.64.102 and chapter 70A.355 RCW shall be imposed by  
11 a notice in writing, either by certified mail with return receipt  
12 requested or by personal service, to the person incurring the penalty  
13 from the department or the local air authority, describing the  
14 violation with reasonable particularity. For penalties issued by  
15 local air authorities, within 30 days after the notice is received,  
16 the person incurring the penalty may apply in writing to the  
17 authority for the remission or mitigation of the penalty. Upon  
18 receipt of the application, the authority may remit or mitigate the  
19 penalty upon whatever terms the authority in its discretion deems  
20 proper. The authority may ascertain the facts regarding all such  
21 applications in such reasonable manner and under such rules as it may  
22 deem proper and shall remit or mitigate the penalty only upon a  
23 demonstration of extraordinary circumstances such as the presence of  
24 information or factors not considered in setting the original  
25 penalty.

26 (2) Any penalty imposed under this section may be appealed to the  
27 pollution control hearings board in accordance with this chapter if  
28 the appeal is filed with the hearings board and served on the  
29 department or authority 30 days after the date of receipt by the  
30 person penalized of the notice imposing the penalty or 30 days after  
31 the date of receipt of the notice of disposition by a local air  
32 authority of the application for relief from penalty.

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

34 (a) Thirty days after receipt of the notice imposing the penalty;

35 (b) Thirty days after receipt of the notice of disposition by a  
36 local air authority on application for relief from penalty, if such  
37 an application is made; or

38 (c) Thirty days after receipt of the notice of decision of the  
39 hearings board if the penalty is appealed.



1 (4) If the amount of any penalty is not paid to the department  
2 within 30 days after it becomes due and payable, the attorney  
3 general, upon request of the department, shall bring an action in the  
4 name of the state of Washington in the superior court of Thurston  
5 county, or of any county in which the violator does business, to  
6 recover the penalty. If the amount of the penalty is not paid to the  
7 authority within 30 days after it becomes due and payable, the  
8 authority may bring an action to recover the penalty in the superior  
9 court of the county of the authority's main office or of any county  
10 in which the violator does business. In these actions, the procedures  
11 and rules of evidence shall be the same as in an ordinary civil  
12 action.

13 (5) All penalties recovered shall be paid into the state treasury  
14 and credited to the general fund except those penalties imposed  
15 pursuant to RCW 18.104.155, which shall be credited to the  
16 reclamation account as provided in RCW 18.104.155(7), RCW  
17 70A.15.3160, the disposition of which shall be governed by that  
18 provision, RCW 70A.245.040 and 70A.245.050, which shall be credited  
19 to the recycling enhancement account created in RCW 70A.245.100, RCW  
20 70A.300.090, which shall be credited to the model toxics control  
21 operating account created in RCW 70A.305.180, RCW 70A.65.200, which  
22 shall be credited to the climate investment account created in RCW  
23 70A.65.250, RCW 90.56.330, which shall be credited to the coastal  
24 protection fund created by RCW 90.48.390, and RCW 70A.355.070, which  
25 shall be credited to the underground storage tank account created by  
26 RCW 70A.355.090.

--- END ---