
HOUSE BILL 1028

State of Washington

52nd Legislature

1991 Regular Session

By Representatives Pruitt, Horn, Rust, Heavey, Anderson, Wineberry, Phillips, Wang, Sprenkle, Jones, Prentice, Fraser, Nelson, G. Fisher, Jacobsen, R. Fisher, Valle, Roland, Hine and Brekke; by request of Governor Gardner.

Read first time January 16, 1991. Referred to Committee on Environmental Affairs.

1 AN ACT Relating to reducing air contaminant emissions and improving
2 air quality; amending RCW 70.94.011, 70.94.030, 70.120.010, 70.120.020,
3 70.120.070, 70.120.080, 70.120.120, 70.120.150, 70.120.170, 46.16.015,
4 70.94.152, 70.94.155, 70.94.181, 70.94.205, 70.94.211, 70.94.430,
5 70.94.431, 70.94.860, 70.94.875, 70.94.745, 70.94.660, 70.94.670,
6 70.94.690, 70.94.650, 70.94.654, 70.94.775, 70.94.780, 70.94.750,
7 70.94.457, 70.94.470, 70.94.473, 70.94.483, 70.94.041, 70.94.055,
8 70.94.092, 70.94.100, 70.94.130, 70.94.170, 70.94.231, 70.94.240,
9 70.94.331, 70.94.332, 70.94.385, 70.94.395, 70.94.405, 70.94.410,
10 70.94.420, and 70.146.080; reenacting and amending RCW 70.94.053;
11 adding new sections to chapter 70.94 RCW; adding a new section to
12 chapter 82.44 RCW; adding a new section to chapter 70.120 RCW; adding
13 a new chapter to Title 82 RCW; adding a new chapter to Title 70 RCW;
14 creating new sections; repealing RCW 70.120.110, 70.120.140,
15 70.120.900, 70.94.232, 70.94.656, 70.94.680, 70.94.740, 70.94.810,
16 70.94.815, 70.94.825, and 70.94.870; providing penalties; providing
17 effective dates; and declaring an emergency.

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

2 I.

3 PUBLIC POLICY, FINDINGS, AND INTENT

4 NEW SECTION. **Sec. 101.** The legislature finds that ambient air
5 pollution is the most serious environmental threat in Washington state.
6 Air pollution causes significant harm to public health; damages the
7 environment, including trees, crops, and animals; causes deterioration
8 of equipment and materials; contributes to water pollution; and
9 degrades the quality of life.

10 Over three million residents of Washington state live where air
11 pollution levels are considered unhealthy. Of all toxic chemicals
12 released into the environment more than half enter our breathing air.
13 Citizens of Washington state spend hundreds of millions of dollars
14 annually to offset health, environmental, and material damage caused by
15 air pollution. The legislature considers such air pollution levels,
16 costs, and damages to be unacceptable.

17 **Sec. 102.** RCW 70.94.011 and 1973 1st ex.s. c 193 s 1 are each
18 amended to read as follows:

19 It is declared to be the public policy ~~((of the state))~~ to
20 preserve, protect, and enhance the air quality for current and future
21 generations. Air is an essential resource that must be protected from
22 harmful levels of pollution. Maintaining and improving air quality is
23 a matter of state-wide concern and is in the public interest. It is
24 the intent of this chapter to secure and maintain ((such)) levels of

1 air quality ~~((as will))~~ that protect human health and safety ~~((and)),~~
2 including the most sensitive members of the population, to comply with
3 the requirements of the federal clean air act, ((and,)) to ~~((the~~
4 ~~greatest degree practicable,))~~ prevent injury to plant ~~((and)),~~ animal
5 life, and property, to foster the comfort and convenience of ~~((its))~~
6 Washington's inhabitants, to promote the economic and social
7 development of the state, and to facilitate the enjoyment of the
8 natural attractions of the state. ((The problems and effects of air
9 pollution are frequently regional and interjurisdictional in nature,
10 and are dependent upon the existence of urbanization and
11 industrialization in areas having common topography and recurring
12 weather conditions conducive to the buildup of air contaminants))

13 It is further the intent of this chapter to protect the public
14 welfare, to preserve visibility, to protect scenic, aesthetic,
15 historic, and cultural values, to prevent air pollution problems that
16 interfere with the enjoyment of life, property, or natural attractions,
17 and to promote energy efficiency and energy conservation.

18 Because of the extent of the air pollution problem the legislature
19 finds it necessary to return areas with poor air quality to levels
20 adequate to protect health and welfare as expeditiously as possible but
21 no later than December 31, 1995. Further, it is the intent of this
22 chapter to prevent any areas of the state with acceptable air quality
23 from reaching air contaminant levels that are not protective of public
24 health and welfare.

25 The legislature recognizes that air pollution control projects may
26 affect other environmental media. In selecting air pollution control
27 strategies state and local agencies shall support those strategies that
28 minimize the negative environmental impact of the project on all
29 environmental media, including air, water, and land.

1 It is the policy of the state that the costs of protecting the air
2 resource and operating state and local air pollution control programs
3 shall be shared among all sources whose emissions cause air pollution.

4 It is also declared as public policy that regional air pollution
5 control programs are to be encouraged and supported to the extent
6 practicable as essential instruments for the securing and maintenance
7 of appropriate levels of air quality.

8 ~~((It is also declared to be the public policy of the state to
9 provide for the people of the populous metropolitan regions in the
10 state the means of obtaining air pollution control not adequately
11 provided by existing agencies of local government. For reasons of the
12 present and potential dramatic growth in population, urbanization, and
13 industrialization, the special problem of air resource management,
14 encompassing both corrective and preventive measures for the control of
15 air pollution cannot be adequately met by the individual towns, cities,
16 and counties of many metropolitan regions.~~

17 ~~In addition, the state is divided into two major areas, each having
18 unique characteristics as to natural climatic and topographic features
19 which may result in the different potentials for the accumulation and
20 buildup of air contaminant concentrations. These two major areas are
21 the area lying west of the Cascade Mountain crest and the area lying
22 east of the Cascade Mountain crest. Within each of these major areas
23 are regions which, because of the climate and topography and present
24 and potential urbanization and industrial development may, through
25 definitive evaluation be classed as regional air pollution areas.))~~

26 To these ends it is the purpose of this chapter to ~~((provide for~~
27 ~~a))~~ safeguard the public interest through an intensive, progressive,
28 and coordinated state-wide program of air pollution prevention and
29 control, to provide for an appropriate distribution of
30 responsibilities, and to encourage coordination and cooperation between

1 the state, regional, and local units of government, (~~and for~~
2 ~~cooperation across jurisdictional lines in dealing with problems of air~~
3 ~~pollution~~)) to improve cooperation between state and federal
4 government, public and private organizations, and the concerned
5 individual, as well as to provide for the use of all known, available,
6 and reasonable methods to reduce, prevent, and control air pollution.

7 The legislature recognizes that the problems and effects of air
8 pollution cross political boundaries, are frequently regional or
9 interjurisdictional in nature, and are dependent upon the existence of
10 human activity in areas having common topography and weather conditions
11 conducive to the buildup of air contaminants. In addition, the
12 legislature recognizes that air pollution is aggravated and compounded
13 by increased population, motor vehicle use, industrial and commercial
14 development, and urbanization. These changes often result in
15 increasingly serious problems for the public and the environment.

16 The legislature further recognizes that air emissions from
17 thousands of small sources such as automobiles and home heating devices
18 are major contributors to air pollution in many regions of the state.
19 As the population of a region grows, small sources may contribute an
20 increasing proportion of that region's total air emissions. It is
21 declared to be the policy of the state to achieve significant
22 reductions in emissions from those small sources whose aggregate
23 emissions constitute a significant contribution to air pollution in a
24 particular region.

25 It is the intent of the legislature that air pollution goals be
26 incorporated in the missions and actions of state agencies.

27 **Sec. 103.** RCW 70.94.030 and 1987 c 109 s 33 are each amended to
28 read as follows:

1 Unless a different meaning is plainly required by the context, the
2 following words and phrases as hereinafter used in this chapter shall
3 have the following meanings:

4 (1) "Air contaminant" means dust, fumes, mist, smoke, other
5 particulate matter, vapor, gas, odorous substance, or any combination
6 thereof.

7 (2) "Air pollution" is presence in the outdoor atmosphere of one or
8 more air contaminants in sufficient quantities and of such
9 characteristics and duration as is, or is likely to be, injurious to
10 human health, plant or animal life, or property, or which unreasonably
11 interfere with enjoyment of life and property.

12 (~~((("Person" means and includes an individual, firm, public or
13 private corporation, association, partnership, political subdivision,
14 municipality or government agency))~~) "Air quality standard" means an
15 established concentration, exposure time, and frequency of occurrence
16 of a contaminant or multiple contaminants in the ambient air which
17 shall not be exceeded.

18 (4) "Ambient air" means the surrounding outside air.

19 (5) "Authority" means any air pollution control agency whose
20 jurisdictional boundaries are coextensive with the boundaries of one or
21 more counties.

22 (~~((+5))~~) (6) "Board" means the board of directors of an authority.

23 (~~((+6))~~) (7) "Control officer" means the air pollution control
24 officer of any authority.

25 (~~((+7))~~) (8) "Department" means the department of ecology.

26 (9) "Emission" means a release into the outdoor atmosphere of air
27 contaminants.

28 (~~((+8) "Department" means the state department of ecology.~~

29 (~~(9) "Ambient air" means the surrounding outside air.)~~)

1 (3) "Fleet" means (~~a group of twenty five or~~) more than one motor
2 vehicle(~~s~~) owned or leased concurrently by one person for nonprivate
3 use.

4 (4) "Motor vehicle" means any self-propelled vehicle required to be
5 licensed pursuant to chapter 46.16 RCW.

6 (5) "Motor vehicle dealer" means a motor vehicle dealer, as defined
7 in RCW 46.70.011, that is licensed pursuant to chapter 46.70 RCW.

8 (6) "Person" means an individual, firm, public or private
9 corporation, association, partnership, political subdivision of the
10 state, municipality, or governmental agency.

11 (7) The terms "air contaminant," "air pollution," "air quality
12 standard," "ambient air," "emission," and "emission standard" have the
13 meanings given them in RCW 70.94.030.

14 **Sec. 202.** RCW 70.120.020 and 1989 c 240 s 5 are each amended to
15 read as follows:

16 (1) The department shall conduct (~~the following programs in a~~
17 ~~manner that will enhance the successful implementation of the air~~
18 ~~pollution control system established for motor vehicles by this~~
19 ~~chapter:~~

20 ~~(a) A voluntary motor vehicle emissions inspection program;~~

21 ~~(b))~~ a public educational program regarding the health effects of
22 air pollution emitted by motor vehicles; the purpose, operation, and
23 effect of emission control devices and systems; and the effect that
24 proper maintenance of motor vehicle engines has on fuel economy and air
25 pollution emission(~~;~~ and

26 ~~(c))~~ and a public notification program identifying the geographic
27 areas of the state that are designated as being noncompliance areas and

1 emission contributing areas and describing the requirements imposed
2 under this chapter for those areas.

3 (2)(a) The department(~~(, the superintendent of public instruction,~~
4 ~~and the state board for community college education shall develop~~
5 ~~cooperatively, after consultation with automotive trades joint~~
6 ~~apprenticeship committees approved in accordance with RCW 49.04.040, a~~
7 ~~program for granting)) shall grant certificates of instruction to
8 persons who successfully complete a course of study, under general
9 requirements established by the director, in the maintenance of motor
10 vehicle engines, the use of engine and exhaust analysis equipment, and
11 the repair and maintenance of emission control devices. The director
12 may establish and implement procedures for granting certification to
13 persons who successfully complete other training programs or who have
14 received certification from private organizations which meet the
15 requirements established in this subsection.~~

16 (b) The department shall make available to the public a list of
17 those persons who have received certificates of instruction under
18 subsection (2)(a) of this section.

19 **Sec. 203.** RCW 70.120.070 and 1989 c 240 c 6 are each amended to
20 read as follows:

21 (1) Any person:

22 (a) Whose motor vehicle is tested pursuant to this chapter and
23 fails to comply with the emission standards established for the
24 vehicle; and

25 (b) Who, following such a test, expends more than four hundred
26 fifty dollars on a (~~1980 or earlier model year motor vehicle or~~
27 ~~expends more than one hundred fifty dollars on a 1981 or later model~~

1 year)) motor vehicle for repairs solely devoted to meeting the emission
2 standards and that are performed by a certified emission specialist
3 authorized by RCW 70.120.020(2)(a); and

4 (c) Whose vehicle fails a retest, may be issued a certificate of
5 acceptance if (i) the vehicle has been in use for more than five years
6 or fifty thousand miles, and (ii) any component of the vehicle
7 installed by the manufacturer for the purpose of reducing emissions, or
8 its appropriate replacement, is installed and operative.

9 (d) To receive the certificate, the person must document compliance
10 with (b) and (c) of this subsection to the satisfaction of the
11 department.

12 (2) Persons who fail the initial tests shall be provided with
13 information regarding the availability of federal warranties and
14 certified emission specialists.

15 **Sec. 204.** RCW 70.120.080 and 1979 ex.s. c 163 s 8 are each amended
16 to read as follows:

17 The director may authorize an owner or lessee of a fleet of motor
18 vehicles, or the owner's or lessee's agent, to inspect the vehicles in
19 the fleet and issue certificates of compliance for the vehicles ((in
20 the fleet if the director determines that: (1) The director's emission
21 and inspection standards will be complied with; and (2) certificates
22 will be issued only to vehicles in the fleet and only when
23 appropriate)).

24 **Sec. 205.** RCW 70.120.120 and 1989 c 240 s 8 are each amended to
25 read as follows:

1 The director shall adopt rules implementing and enforcing this
2 chapter (~~(and RCW 46.16.015(2)(g))~~) in accordance with chapter 34.05
3 RCW. Notwithstanding the provisions of chapter 34.05 RCW, any rule
4 implementing and enforcing RCW 70.120.150(5) may not be adopted until
5 it has been submitted to the standing committees on ecology of the
6 house of representatives and senate for review and approval. The
7 standing committees shall take into account when considering proposed
8 modifications of emission contributing boundaries, as provided for in
9 RCW 70.120.150(5), alternative (~~(plans for traffic rerouting and~~
10 ~~traffic bans)~~) transportation control and motor vehicle emission
11 reduction measures that (~~(may have been prepared)~~) are required by
12 local municipal corporations for the purpose of satisfying federal
13 emission guidelines.

14 **Sec. 206.** RCW 70.120.150 and 1989 c 240 s 2 are each amended to
15 read as follows:

16 The director:

17 (1) Shall adopt motor vehicle emission and equipment standards to:
18 Ensure that no less than seventy percent of the vehicles tested comply
19 with the standards on the first inspection conducted, meet federal
20 clean air act requirements, and protect public health and welfare.

21 (2) Shall designate a geographic area as being a "noncompliance
22 area" for motor vehicle emissions if (a) the department's analysis of
23 (~~(the)~~) emission and air quality data, (~~(recorded for)~~) covering a
24 period of no less than one year, (~~(at the monitoring sites)~~) indicates
25 that the standard has or will probably be exceeded, and (b) the
26 department determines that the primary source of the contaminant
27 (~~(being monitored at the sites)~~) is motor vehicle emissions.

1 (3) Shall reevaluate noncompliance areas if the United States
2 environmental protection agency modifies the relevant air quality
3 standards, and shall discontinue the program if compliance is indicated
4 and if the department determines that the area would continue to be in
5 compliance after the program is discontinued. The director shall
6 notify persons residing in noncompliance areas of the reevaluation.

7 (4) Shall analyze information regarding the motor vehicle traffic
8 in a noncompliance area to determine the smallest land area within
9 whose boundaries are present registered motor vehicles that contribute
10 significantly to the violation of motor vehicle-related air quality
11 standards in the noncompliance area. The director shall declare the
12 area to be an "emission contributing area." An emission contributing
13 area established for a carbon monoxide or oxides of nitrogen
14 noncompliance area must contain the noncompliance area within its
15 boundaries. An emission contributing area established for an ozone
16 noncompliance area located in this state need not contain the ozone
17 noncompliance area within its boundaries if it can be proven that
18 vehicles registered in the area contribute significantly to violations
19 of the ozone air quality standard in the noncompliance area. An
20 emission contributing area may be established in this state for
21 violations of federal air quality standards for ozone in an adjacent
22 state if (a) the United States environmental protection agency
23 designates an area to be a "nonattainment area for ozone" under the
24 provisions of the federal Clean Air Act (42 U.S.C. 7401 et. seq.), and
25 ~~(b) ((the nonattainment area encompasses portions of both Washington~~
26 ~~and the adjacent state, and (c))~~) it can be proven that vehicles
27 registered in this state contribute significantly to the violation of
28 the federal air quality standards for ozone in the adjacent state's
29 ~~((portion of the))~~ nonattainment area.

1 (5) Shall designate areas as being noncompliance areas or emission
2 contributing areas, and shall establish the boundaries of such areas by
3 rule. The director may also modify boundaries. In establishing the
4 external boundaries of an emission contributing area, the director
5 shall use the boundaries established for ZIP code service areas by the
6 United States postal service.

7 (6) May make grants to units of government in support of planning
8 efforts to reduce motor vehicle emissions (~~((in areas where emission
9 control inspections are not required))~~).

10 **Sec. 207.** RCW 70.120.170 and 1989 c 240 s 4 are each amended to
11 read as follows:

12 (1) The department shall administer a system for (~~((biennial))~~)
13 emission inspections (~~((of emissions))~~) of all motor vehicles registered
14 within the boundaries of each emission contributing area. (~~((Persons
15 residing within the boundaries of an emission contributing area shall
16 register their motor vehicle within that area, unless business reasons
17 require registration outside the area. Requests for exemption from
18 inspection for business reasons shall be reviewed and approved by the
19 director))~~) Under such system a motor vehicle shall be inspected
20 biennially and at each change of registered owner except where an
21 annual program would be required to meet federal law and prevent
22 federal sanctions.

23 (2) The director shall:

24 (a) Adopt procedures for conducting emission (~~((tests for))~~)
25 inspections of motor vehicles. The (~~((tests shall))~~) inspections may
26 include idle and high revolution per minute emission tests. The
27 emission test for diesel vehicles with a gross vehicle weight in excess

1 of fourteen thousand pounds shall consist solely of a smoke opacity
2 test.

3 (b) Adopt criteria for calibrating emission testing equipment.
4 Electronic equipment used to test for emissions standards provided for
5 in this chapter shall be properly calibrated. The department shall
6 examine frequently the calibration of the emission testing equipment
7 used at the stations.

8 (c) Authorize(~~(, through contracts,)~~) the establishment and
9 operation of inspection stations for conducting ~~((the))~~ vehicle
10 emission ~~((tests))~~ inspections authorized in this chapter. ~~((No person~~
11 ~~contracted to inspect motor vehicles may perform for compensation~~
12 ~~repairs on any vehicles.))~~ No public body may establish or operate
13 contracted inspection stations. Any contracts must be let in
14 accordance with the procedures established for competitive bids in
15 chapter 43.19 RCW.

16 (3) Subsection (2)(c) of this section does not apply to volunteer
17 motor vehicle inspections under RCW 70.120.020(1)(a) if the inspections
18 are conducted for the following purposes:

19 (a) Auditing;

20 (b) Contractor evaluation;

21 (c) Collection of data for establishing calibration and performance
22 standards; or

23 (d) Public information and education.

24 (4)~~((a))~~ The director shall establish by rule the fee to be
25 charged for emission inspections. The inspection fee shall be a
26 standard fee applicable state-wide or throughout an emission
27 contributing area and shall be no greater than eighteen dollars.
28 ~~((Surplus moneys collected from fees over the amount due the contractor~~
29 ~~shall be paid to the state and deposited in the general fund.))~~ The
30 inspection fee for the initial inspection, including one free

1 reinspection, shall be collected by the department of licensing or its
2 agents when a motor vehicle required to be inspected is issued a
3 license or when the license is renewed. The department of licensing or
4 its agents may charge a one dollar fee to waive the inspection fee for
5 a vehicle if the vehicle was not required to be inspected and if the
6 department of licensing could not have reasonably foreseen at the time
7 of license renewal notification that the vehicle would be exempt from
8 the inspection requirement. If more than two inspections are conducted
9 on a vehicle, the additional inspection fee or fees shall be collected
10 by the inspection station. Fees shall be set at the minimum whole
11 dollar amount required to (i) compensate the contractor or inspection
12 facility owner, and (ii) offset the general fund appropriation to the
13 department to cover the administrative costs of the motor vehicle
14 emission inspection program.

15 ~~((b) Before each inspection, a person whose motor vehicle is to be~~
16 ~~inspected shall pay to the inspection station the fee established under~~
17 ~~this section.))~~ The person whose motor vehicle is inspected shall
18 receive the results of the inspection ~~((test))~~. If the inspected
19 ~~((vehicle's emissions comply))~~ vehicle complies with the standards
20 established by the director, the person shall receive a dated
21 certificate of compliance. If the inspected ~~((vehicle's emissions do))~~
22 vehicle does not comply with those standards, one ~~((retest of the~~
23 ~~vehicle's emission))~~ reinspection of the vehicle shall be afforded
24 without charge. All fee proceeds shall be deposited into the emission
25 inspection fee fund, which is hereby created in the custody of the
26 state treasurer. Expenditures from the fund may be used only for
27 contractor reimbursement. Only the director of ecology or the
28 director's designee may authorize expenditures from the fund.
29 Quarterly the director shall transfer to the general fund that portion
30 of the fund that is not needed for contractor reimbursement.

1 (5) All units of local government and agencies of the state with
2 motor vehicles garaged or regularly operated in an emissions
3 contributing area shall test the emissions of those vehicles
4 (~~biennially~~) annually to ensure that the vehicle's emissions comply
5 with the emission standards established by the director. All state
6 agencies outside of emission contributing areas with fleets of more
7 than twenty motor vehicles housed at a single facility or contiguous
8 facilities shall test the emissions of those vehicles annually to
9 ensure that the vehicles' emissions comply with standards established
10 by the director. A report of the results of the tests shall be
11 submitted to the department.

12 **Sec. 208.** RCW 46.16.015 and 1990 c 42 s 318 are each amended to
13 read as follows:

14 (1) Neither the department of licensing nor its agents may issue or
15 renew a motor vehicle license for any vehicle (~~registered in an~~
16 ~~emission contributing area, as that area is established under chapter~~
17 ~~70.120 RCW~~) or change the registered owner, for any (~~year in which~~
18 ~~the~~) vehicle that is required to be (~~tested~~) inspected under chapter
19 70.120 RCW, unless the application for issuance or renewal is: (a)
20 Accompanied by a valid certificate of compliance or a valid certificate
21 of acceptance issued pursuant to chapter 70.120 RCW; or (b) exempted
22 from this requirement pursuant to subsection (2) of this section. The
23 certificates must have a date of validation which is within ninety days
24 of the date of application for the vehicle license or license renewal.
25 Certificates for fleet vehicles may have a date of validation which is
26 within twelve months of the assigned license renewal date.

1 (2) Subsection (1) of this section does not apply to the following
2 vehicles:

3 (a) New motor vehicles whose equitable or legal title has never
4 been transferred to a person who in good faith purchases the vehicle
5 for purposes other than resale;

6 (b) Motor vehicles with a model year of 1967 or earlier;

7 (c) Motor vehicles that use propulsion units powered exclusively by
8 electricity;

9 (d) Motor vehicles fueled exclusively by propane, compressed
10 natural gas, or liquid petroleum gas, unless it is determined that
11 federal sanctions will be imposed as a result of this exemption;

12 (e) Motorcycles as defined in RCW 46.04.330 and motor-driven cycles
13 as defined in RCW 46.04.332;

14 ~~(f) ((Motor vehicles powered by diesel engines;~~

15 ~~(g)))~~ Farm vehicles as defined in RCW 46.04.181; or

16 ~~((h) Used vehicles which are offered for sale by a motor vehicle
17 dealer licensed under chapter 46.70 RCW; or~~

18 ~~(i)))~~ (g) Motor vehicles exempted by the director of the department
19 of ecology.

20 The provisions of subparagraph (a) of this subsection may not be
21 construed as exempting from the provisions of subsection (1) of this
22 section applications for the renewal of licenses for motor vehicles
23 that are or have been leased.

24 ~~(3) ((The department of licensing shall mail to each owner of a
25 vehicle registered within an emission contributing area a notice
26 regarding the boundaries of the area and restrictions established under
27 this section that apply to vehicles registered in such areas. The
28 information for the notice shall be supplied to the department of
29 licensing by the department of ecology.))~~ The department of ecology
30 shall provide information to motor vehicle owners regarding the

1 boundaries of emission contributing areas and restrictions established
2 under this section that apply to vehicles registered in such areas. In
3 addition the department of ecology shall provide information to motor
4 vehicle owners on the relationship between motor vehicles and air
5 pollution and steps motor vehicle owners should take to reduce motor
6 vehicle related air pollution. The department of licensing shall send
7 to all registered motor vehicle owners (~~who reside within the~~
8 ~~emissions area~~) affected by the emission testing program notice that
9 they must have an emission test to renew their registration.

10 NEW SECTION. Sec. 209. A new section is added to chapter 82.44
11 RCW to read as follows:

12 (1) The annual excise tax specified in RCW 82.44.020 shall be
13 waived for any vehicle certified by the United States environmental
14 protection agency as a "clean-fuel vehicle."

15 (2) At any time within twenty-four months following the date any
16 vehicle certified by the United States environmental protection agency
17 or the department as provided in subsection (4) of this section as a
18 "clean-fuel vehicle" is available for delivery, but no later than the
19 next invitation to bid, and more than one vehicle manufacturer has
20 obtained certification in the same weight class, at least thirty
21 percent of new vehicles in that weight class ordered through a state
22 contract for motor vehicles shall be "clean-fuel vehicles." The
23 percentage of such vehicles purchased shall increase at the rate of
24 five percent every two years.

25 (a) Weight classes are established by the following motor vehicle
26 types:

27 (i) Passenger cars;

1 (ii) Light duty trucks, trucks with a gross vehicle weight rating
2 by the vehicle manufacturer of less than eight thousand five hundred
3 pounds.

4 (iii) Heavy duty trucks, trucks with a gross vehicle weight rating
5 by the vehicle manufacturer of eight thousand five hundred pounds or
6 more.

7 (b) This subsection does not place an obligation upon the state or
8 its political subdivisions to purchase vehicles in any number or weight
9 class other than to meet the thirty percent requirement.

10 (3) No later than twelve months or, if sooner, at the issuance of
11 the next invitation to bid following certification of a "clean fuel" by
12 the environmental protection agency, all invitations to bid issued by
13 agencies of the state shall require that the purchased fuel meet the
14 specifications of the "clean fuel" when vehicles operated by that
15 agency or unit of local government are capable of operating on such
16 "clean fuel."

17 (4) In addition to or in lieu of "clean fuel" or "clean-fuel
18 vehicles" certified by the environmental protection agency, the
19 department may develop in cooperation with the departments of general
20 administration and transportation, and the state energy office, clean
21 fuel performance and clean-fuel vehicle emissions specifications. When
22 developing such specifications the department shall consider the
23 requirements of the clean air act and the findings of the environmental
24 protection agency, other states, the American Petroleum Institute and
25 the Motor Vehicles Manufacturers Association. These specifications
26 shall be included in future invitations to bid for vehicle and fuel
27 purchases to promote lower automotive emissions or the use of
28 alternative fuel technology.

29 (5) The department, in cooperation with the departments of general
30 administration and transportation, and the state energy office, shall

1 biennially prepare a report to the legislature starting July 1, 1992,
2 on (a) the progress of clean fuel and clean-fuel vehicle programs
3 toward reducing automotive emissions, (b) the efforts of the state,
4 units of local government, and the private sector to evaluate and
5 utilize "clean fuel" or "clean-fuel vehicles," and (c) recommendations
6 for changes in the existing program to make it more effective and
7 recommendations, if warranted, for expansion of the program.

8 (6) The department may disburse matching grants from funds provided
9 by the legislature from the air pollution control account, created in
10 section 227 of this act, to units of local government to partially
11 offset the additional cost of purchasing "clean fuel" and/or operating
12 "clean-fuel vehicles" and provide for initiation of clean fuel and
13 clean-fuel vehicle programs or for other programs that promote lower
14 emissions from the operation of motor vehicles.

15 NEW SECTION. **Sec. 210.** A new section is added to chapter 70.94
16 RCW to read as follows:

17 No state agency, metropolitan planning organization, or local
18 government shall approve or fund a transportation plan, program, or
19 project unless a determination has been made that the plan, program, or
20 project conforms with the state implementation plan for air quality.

21 (1) "Conformity to the state implementation plan" means:

22 (a) Conformity to the state implementation plan's purpose of
23 eliminating or reducing the severity and number of violations of the
24 national ambient air quality standards and achieving expeditious
25 attainment of such standards; and

26 (b) Ensuring that a proposed transportation plan, program, or
27 project will not:

28 (i) Cause or contribute to any new violation of any standard in any
29 area;

1 (ii) Increase the frequency or severity of any existing violation
2 of any standard in any area; or

3 (iii) Delay timely attainment of any standard or any required
4 interim emission reductions or other milestones in any area.

5 Conformity determination shall be made by the state or local
6 government or metropolitan planning organization administering or
7 developing the plan, program, or project. The determination of
8 conformity shall be based on the most recent estimates of emissions,
9 and such estimates shall be determined from the most recent
10 population, employment, travel, and congestion estimates as determined
11 by the metropolitan planning organization or other agency authorized to
12 make such estimates.

13 (2) Plans and programs conform if:

14 (a) Emissions resulting from such plans and programs are consistent
15 with baseline emission inventories and emission reduction projections
16 and schedules assigned to those plans and programs in the state
17 implementation plan; and

18 (b) The plans and programs provide for the timely implementation of
19 the transportation provisions in the approved or promulgated state
20 implementation plan.

21 (3) A project conforms if:

22 (a) It is a control measure from the state implementation plan; or

23 (b) It comes from a conforming plan and program, and the design and
24 scope of such project has not changed significantly since the plan and
25 program from which the project derived was found to conform.

26 (c) A project other than one referred to in (a) and (b) of this
27 subsection conforms if it is demonstrated that the project either does
28 not contribute to increased emissions in the nonattainment area, or
29 that offsetting emission reductions for the project are specifically
30 provided for in the transportation plan and program, or are otherwise

1 enforceable through the state implementation plan, before the project
2 is approved.

3 (d) No later than eighteen months after the effective date of this
4 section, the director of the department of ecology and the secretary of
5 transportation, in consultation with other state, regional, and local
6 agencies as appropriate, shall adopt by rule criteria and guidance for
7 demonstrating and assuring conformity of plans, programs, and projects.

8 (4) A project with a scope that is limited to preservation or
9 maintenance, or both, shall be exempted from a conformity determination
10 requirement.

11 NEW SECTION. **Sec. 211.** The legislature finds that automotive
12 traffic in Washington's metropolitan areas is the major source of
13 emissions of air contaminants. This air pollution causes significant
14 harm to public health, causes damage to trees, plants, and materials
15 and degrades the quality of the environment.

16 Increasing automotive traffic is also aggravating traffic
17 congestion in Washington's metropolitan areas. This traffic congestion
18 imposes significant costs on Washington's businesses, governmental
19 agencies, and cities in terms of lost working hours and delays in the
20 delivery of goods and services. Traffic congestion worsens automobile-
21 related air pollution and increases the consumption of fuel. This same
22 traffic congestion also degrades the livability of many of Washington's
23 cities and suburban areas. The capital and environmental costs of
24 fully accommodating the existing and projected automobile traffic on
25 roads and highways are prohibitive.

26 The legislature also finds that increasing automotive
27 transportation is a major factor in increasing consumption of gasoline
28 and, thereby, increasing reliance on imported sources of petroleum.
29 Moderating the growth in automotive travel is essential to stabilizing

1 and reducing dependence on imported petroleum and improving the
2 nation's energy security.

3 The legislature further finds that reducing the number of trips to
4 work made via single occupant cars and light trucks is an effective way
5 of reducing automobile-related air pollution, traffic congestion, and
6 energy use. Major employers have significant opportunities to
7 encourage and facilitate reducing single occupant vehicle commuting by
8 employees.

9 The intent of this chapter is to require local governments in those
10 counties experiencing the greatest automobile-related air pollution and
11 traffic congestion to develop and implement plans to reduce single
12 occupant vehicle commute trips. Such plans shall require major
13 employers and the owners of major work sites to implement programs to
14 reduce single occupant vehicle commuting by employees at major work
15 sites. Local governments in counties experiencing significant but less
16 severe automobile-related air pollution and traffic congestion may
17 implement such plans. State agencies shall implement programs to
18 reduce single occupant vehicle commuting at all major work sites
19 throughout the state.

20 NEW SECTION. **Sec. 212.** Unless the context clearly requires
21 otherwise, the definitions in this section apply throughout this
22 chapter.

23 (1) "Major employer" means a private or public employer that
24 employs one hundred or more full-time equivalent employees at a single
25 work site during a twenty-four hour period for at least six contiguous
26 months during a year.

27 (2) "Major work site" means a building or group of buildings that
28 are on physically contiguous parcels of land or on parcels separated
29 solely by private or public roadways or rights of way, and at which

1 there are one hundred or more full-time equivalent employees of one or
2 more employers during a twenty-four hour period for at least six
3 contiguous months.

4 (3) "Commute trip reduction zones" mean areas within a jurisdiction
5 that are characterized by similar employment density, population
6 density, level of transit service, parking availability, access to high
7 occupancy vehicle facilities, and other factors that are determined to
8 affect the level of single occupancy vehicle commuting.

9 (4) "Commute trip" means trips made from a worker's home to a work
10 site during the peak period of 6 a.m. to 10 a.m. on week days.

11 (5) "Proportion of single occupant vehicle commute trips" means the
12 number of commute trips made by single occupant automobiles divided by
13 the number of full-time equivalent employees.

14 (6) "Commute trip vehicle miles traveled per employee" means the
15 sum of the undivided vehicle commute trip lengths in miles divided by
16 the number of full-time equivalent employees. Commute trips made by
17 transit shall not be counted as a vehicle commute trip.

18 (7) "Base year" means the year January 1, 1992, through December
19 31, 1992.

20 NEW SECTION. **Sec. 213.** (1) Each county with a population over
21 two hundred twenty-five thousand, and each city or town within those
22 counties containing a major employer shall, by July 1, 1992, adopt by
23 ordinance and shall implement a commute trip reduction plan. The plan
24 shall be developed in cooperation with local transit agencies, regional
25 transportation planning organizations as established in RCW 47.80.020,
26 major employers, and the owners of major work sites. The plan shall be
27 designed to achieve reductions in the proportion of single occupant
28 vehicle commute trips and the commute trip vehicle miles traveled per

1 employee by employees of major public and private sector employers in
2 the jurisdiction.

3 (2) All other counties, and cities and towns in those counties, may
4 adopt and implement a commute trip reduction plan.

5 (3) The department of ecology may, after consultation with the
6 state energy office, as part of the state implementation plan for areas
7 that do not attain the national ambient air quality standards for
8 carbon monoxide or ozone, require municipalities to adopt and implement
9 commute trip reduction plans if the department determines that such
10 plans are necessary for attainment of said standards.

11 (4) A commute trip reduction plan shall be consistent with the
12 guidelines established under section 216 of this act and shall include
13 but is not limited to (a) goals for reductions in the proportion of
14 single occupant vehicle commute trips and the commute trip vehicle
15 miles traveled per employee; (b) designation of commute trip reduction
16 zones; (c) requirements for major public and private sector employers
17 to implement commute trip reduction programs; (d) a commute trip
18 reduction program for employees of the county, city, or town; (e) a
19 review of local parking policies and ordinances as they relate to
20 employers and major work sites and any revisions necessary to comply
21 with commute trip reduction goals and guidelines; and (f) means for
22 determining base year values of the proportion of single occupant
23 vehicle commute trips and the commute trip vehicle miles travelled per
24 employee and progress toward meeting commute trip reduction plan goals
25 on an annual basis. In establishing goals for reductions in single
26 occupant vehicle trip proportion and vehicle miles traveled per
27 employee, the county, city, or town shall take into account the
28 considerations of RCW 81.100.040. The goals shall not be less than a
29 ten percent reduction from the base year values for all major employers

1 in a work trip reduction zone by January 1, 1995, and twenty percent
2 reduction from the base year values by January 1, 1997.

3 (5) A county, city, or town may, as part of its commute trip
4 reduction plan, require commute trip reduction programs for other than
5 major employers for major work sites if the county, city, or town
6 determines such programs are necessary to address local transportation
7 or air quality problems.

8 (6) The commute trip reduction plans adopted by counties, cities,
9 and towns under this chapter shall be consistent with and may be
10 incorporated in applicable state or regional transportation plans and
11 local comprehensive plans and shall be coordinated, and consistent
12 with, the commute trip reduction plans of counties, cities, or towns
13 with which the county, city, or town has, in part, common borders or
14 related regional issues. Counties, cities, or towns adopting commute
15 trip reduction plans may enter into agreements through the interlocal
16 cooperation act with other jurisdictions, local transit agencies, or
17 regional transportation planning organizations to coordinate the
18 development and implementation of such plans. Counties, cities, or
19 towns adopting a commute trip reduction plan shall review it annually
20 and revise it as necessary to be consistent with applicable plans
21 developed under RCW 36.70A.070.

22 (7) Each county, city, or town implementing a commute trip
23 reduction program shall, by July 15, 1992, submit a summary of its plan
24 along with certification of adoption to the commute trip reduction task
25 force established under section 216 of this act.

26 (8) Each county, city, or town implementing a commute trip
27 reduction program shall submit an annual progress report to the commute
28 trip reduction task force established under section 216 of this act.
29 The report shall be due July 1, 1993, and each July 1 thereafter
30 through July 1, 1996. The report shall describe progress in attaining

1 the applicable commute trip reduction goals for each commute trip
2 reduction zone and shall highlight any problems being encountered in
3 achieving the goals. The information shall be reported in a form
4 established by the commute trip reduction task force.

5 NEW SECTION. **Sec. 214.** (1) Not more than six months after the
6 adoption of the commute trip reduction plan by a jurisdiction, each
7 major employer in that jurisdiction shall develop a commute trip
8 reduction program and shall submit a description of that program to the
9 jurisdiction for review. The program shall be implemented not more
10 than three months after submission to the jurisdiction.

11 (2) A commute trip reduction program shall consist of (a)
12 designation of an on-site transportation coordinator; (b) regular
13 distribution of information to employees regarding alternatives to
14 single occupant vehicle commuting; (c) an annual survey of employee
15 commuting and reporting of progress toward meeting the single occupant
16 vehicle reduction goals to the county, city, or town consistent with
17 the method established in the commute trip reduction plan; and (d)
18 implementation of a set of measures designed to achieve the applicable
19 commute trip reduction goals adopted by the jurisdiction. Such
20 measures may include but are not limited to:

21 (i) Provision of preferential parking or reduced parking charges,
22 or both, for high occupancy vehicles;

23 (ii) Instituting or increasing parking charges for single occupant
24 vehicles;

25 (iii) Provision of commuter ride matching services to facilitate
26 employee ridesharing for commute trips;

27 (iv) Provision of subsidies for transit fares;

28 (v) Provision of vans for van pools;

29 (vi) Provision of subsidies for car pooling or van pooling;

1 (vii) Permitting the use of the employer's vehicles for car pooling
2 or van pooling;

3 (viii) Permitting flexible work schedules to facilitate employees'
4 use of transit, car pools, or van pools;

5 (ix) Cooperation with transportation providers to provide
6 additional regular or express service to the work site;

7 (x) Construction of special loading and unloading facilities for
8 transit, car pool, and van pool users;

9 (xi) Provision of bicycle parking facilities, lockers, changing
10 areas, and showers for employees who bicycle or walk to work;

11 (xii) Provision of a program of parking incentives such as a rebate
12 for employees who do not use the parking facility;

13 (xiii) Establishment of a program to permit employees to work part
14 or full time at home or at an alternative work site closer to their
15 homes;

16 (xiv) Establishment of a program of alternative work schedules such
17 as compressed work week schedules which reduce commuting; and

18 (xv) Implementation of other measures designed to facilitate the
19 use of high-occupancy vehicles such as on-site day care facilities and
20 emergency taxi services.

21 (3) Employers or owners of work sites may form or utilize existing
22 transportation management associations to assist members in developing
23 and implementing commute trip reduction programs.

24 NEW SECTION. **Sec. 215.** (1) Each jurisdiction implementing a
25 commute trip reduction plan under this chapter or as part of a plan or
26 ordinance developed under RCW 36.70A.070 shall review each employer's
27 initial commute trip reduction program to determine if the program is
28 likely to meet the applicable commute trip reduction goals. The
29 employer shall be notified by the jurisdiction of its findings. If the

1 jurisdiction finds that the program is not likely to meet the
2 applicable commute trip reduction goals, the jurisdiction will work
3 with the employer to modify the program as necessary. The jurisdiction
4 shall complete review of each employee's initial commute trip reduction
5 program within six months of receipt.

6 (2) Each jurisdiction shall annually review each employer's
7 progress toward meeting the applicable commute trip reduction goals.
8 If it appears an employer is not likely to meet the applicable commute
9 trip reduction goals, the jurisdiction shall work with the employer to
10 make modifications to the commute trip reduction program.

11 (3) If an employer fails to meet the applicable commute trip
12 reduction goals, the jurisdiction shall propose modifications to the
13 program and direct the employer to revise its program to incorporate
14 those modifications or modifications which the jurisdiction determines
15 to be equivalent within thirty days.

16 (4) Each jurisdiction implementing a commute trip reduction plan
17 pursuant to this chapter may impose civil penalties, in the manner
18 provided in chapter 7.80 RCW, for failure by an employer to implement
19 a commute trip reduction program or to modify its commute trip
20 reduction program as required in subsection (3) of this section.

21 NEW SECTION. **Sec. 216.** (1) A commute trip reduction task force
22 shall be established by the state energy office. The task force shall
23 be composed of one representative from the state energy office who
24 shall serve as chair; one representative from each of the departments
25 of transportation, ecology, community development, and general
26 administration; six representatives from counties, based on
27 recommendations from the Washington state association of counties;
28 three representatives from cities or towns, based on recommendations
29 from the association of Washington cities; three representatives from

1 transit agencies; and six representatives from major employers. The
2 task force shall be dissolved on July 1, 1997.

3 (2) By January 1, 1992, the commute trip reduction task force shall
4 establish guidelines for commute trip reduction plans. The guidelines
5 are intended to ensure consistency in commute trip reduction plans and
6 goals among jurisdictions while fairly taking into account differences
7 in employment and housing density, employer size, existing and
8 anticipated levels of transit service, and other factors the task force
9 determines to be relevant. The guidelines shall include criteria for
10 establishing commute trip reduction zones and the information
11 requirements for determining progress in meeting the commute trip
12 reduction goals.

13 (3) The task force shall review the costs and benefits of commute
14 trip plans and programs and shall make recommendations to the
15 legislature by December 1, 1994, and December 1, 1996. In assessing
16 the costs and benefits, the task force shall also consider the costs of
17 not having implemented commute trip reduction plans and programs. The
18 recommendations shall address the need for continuation, modification,
19 or termination of any or all requirements of this chapter.

20 NEW SECTION. **Sec. 217.** (1) A technical assistance team shall
21 be established under the direction of the state energy office and
22 include representatives of the departments of transportation and
23 ecology. The team shall provide staff support to the commute trip
24 reduction task force in carrying out the requirements of section 216 of
25 this act and to the department of general administration in carrying
26 out the requirements of section 219 of this act.

27 (2) The team shall provide technical assistance to counties,
28 cities, and towns, the department of general administration, other
29 state agencies, and other employers in developing and implementing

1 commute trip reduction plans and programs. The technical assistance
2 shall include: (a) Guidance in determining base and subsequent year
3 values of single occupant vehicle commuting proportion and commute trip
4 reduction vehicle miles traveled to be used in determining progress in
5 attaining plan goals; (b) developing model plans and programs
6 appropriate to different situations; and (c) providing consistent
7 training and informational materials for the implementation of commute
8 trip reduction programs. Model plans and programs, training and
9 informational materials shall be developed in cooperation with
10 representatives of local governments, transit agencies, and employers.

11 NEW SECTION. **Sec. 218.** A portion of the funds collected under
12 section 225 of this act shall be used to fund the commute trip
13 reduction task force in carrying out the responsibilities of section
14 217 of this act, and the interagency technical assistance team and to
15 assist counties, cities, and towns implementing commute trip reduction
16 plans. Funds shall be provided to the counties in proportion to the
17 number of major employers and major work sites in each county. The
18 counties shall provide funds to cities and towns within the county
19 which are implementing commute trip reduction plans in proportion to
20 the number of major employers and major work sites within the city or
21 town.

22 NEW SECTION. **Sec. 219.** (1) The director of general
23 administration, with the concurrence of an interagency task force
24 established for the purposes of this section, shall coordinate a
25 commute trip reduction plan for state facilities by July 1, 1992. The
26 task force shall include representatives of the state energy office,
27 the departments of transportation and ecology and such other
28 departments as the director of general administration determines to be

1 necessary to be generally representative of state agencies. The state
2 agency plan shall be consistent with the requirements of sections 213
3 and 214 of this act and shall be developed in consultation with state
4 employees, local and regional governments, local transit agencies, the
5 business community, and other interested groups. The plan shall
6 consider and recommend policies applicable to all state agencies
7 including but not limited to policies regarding parking and parking
8 charges, employee incentives for commuting by other than single-
9 occupant automobiles, flexible and alternative work schedules,
10 alternative work sites, and the use of state-owned vehicles for car and
11 van pools. The plan shall also consider the costs and benefits to
12 state agencies of achieving commute trip reductions and consider
13 mechanisms for funding state agency commute trip reduction programs.
14 The department shall, by July 15, 1992, submit a summary of its plan
15 along with certification of adoption to the commute trip reduction task
16 force established under section 216 of this act.

17 (2) Not more than three months after the adoption of the commute
18 trip reduction plan, each state agency shall, for each facility which
19 is a major employer, develop a commute trip reduction program. The
20 program shall be designed to meet the goals of the commute trip
21 reduction plan of the county, city, or town or, if there is no local
22 commute trip reduction plan, the state. The program shall be
23 consistent with the policies of the state commute trip reduction plan
24 and section 214 of this act. The agency shall submit a description of
25 that program to the local jurisdiction implementing a commute trip
26 reduction plan or, if there is no local commute trip reduction plan, to
27 the department of general administration. The program shall be
28 implemented not more than three months after submission to the
29 department. Annual reports required in section 214(2)(c) of this act
30 shall be submitted to the local jurisdiction implementing a commute

1 trip reduction plan and to the department of general administration.
2 An agency which is not meeting the applicable commute trip reduction
3 goals shall, to the extent possible, modify its program to comply with
4 the recommendations of the local jurisdiction or the department of
5 general administration.

6 (3) State agencies sharing a common location may develop and
7 implement a joint commute trip reduction program or may delegate the
8 development and implementation of the commute trip reduction program to
9 the department of general administration.

10 (4) The department of general administration in consultation with
11 the state technical assistance team shall review the initial commute
12 trip reduction program of each state agency subject to the commute trip
13 reduction plan for state agencies to determine if the program is likely
14 to meet the applicable commute trip reduction goals and notify the
15 agency of any deficiencies. If it is found that the program is not
16 likely to meet the applicable commute trip reduction goals, the team
17 will work with the agency to modify the program as necessary.

18 (5) For each agency subject to the state agency commute trip
19 reduction plan, the department of general administration in
20 consultation with the technical assistance team shall annually review
21 progress toward meeting the applicable commute trip reduction goals.
22 If it appears an agency is not meeting or is not likely to meet the
23 applicable commute trip reduction goals, the team shall work with the
24 agency to make modifications to the commute trip reduction program.

25 (6) The department of general administration shall submit an annual
26 progress report for state agencies subject to the state agency commute
27 trip reduction plan to the commute trip reduction task force
28 established under section 216 of this act. The report shall be due
29 April 1, 1993, and each April 1 thereafter. The report shall report
30 progress in attaining the applicable commute trip reduction goals for

1 each commute trip reduction zone and shall highlight any problems being
2 encountered in achieving the goals. The information shall be reported
3 in a form established by the commute trip reduction task force.

4 NEW SECTION. **Sec. 220.** Sections 211 through 219 of this act
5 shall constitute a new chapter in Title 70 RCW.

6 NEW SECTION. **Sec. 221.** The long-range health and environmental
7 goals for the state of Washington require the protection of the state's
8 air quality for the health, safety, and enjoyment of its people. It is
9 the purpose of this chapter to encourage the purchase of efficient, low
10 emission motor vehicles.

11 NEW SECTION. **Sec. 222.** Unless the context clearly requires
12 otherwise, the definitions in this section apply throughout this
13 chapter.

14 (1) "Motor vehicle" means all motor vehicles of the type designed
15 primarily to be used upon the public streets and highways, for the
16 convenience or pleasure of the owner, or for the conveyance, for hire
17 or otherwise, of persons or property, including automobiles, light
18 trucks, fixed loads and facilities for human habitation; but shall not
19 include (a) dock and warehouse tractors and their cars or trailers,
20 lumber carriers of the type known as spiders, and all other automotive
21 equipment not designed primarily for use upon public streets, or
22 highways, (b) mobile home and travel trailers as defined in RCW
23 82.50.010, or (c) farm vehicles as defined in RCW 46.04.181.

24 (2) "New motor vehicle dealer" means the initial retail seller of
25 motor vehicles as defined in subsection (1) of this section.

1 (3) "Purchase price" means the price paid by a new motor vehicle
2 dealer to a manufacturer, or distribution company of a manufacturer,
3 for a motor vehicle delivered to the dealer for subsequent resale.

4 NEW SECTION. **Sec. 223.** An excise tax is imposed on the
5 privilege of selling by manufacturers or the distribution companies of
6 manufacturers new motor vehicles to the new motor vehicle dealers in
7 the state. The excise tax shall consist of two parts and shall be
8 computed as follows:

9 (1) Part one shall be an amount equal to thirty-seven one-
10 hundredths percent of the purchase price of the vehicle and shall be
11 based on information provided pursuant to section 226 of this act; and

12 (2) Part two shall be an amount computed by section 224 of this
13 act.

14 NEW SECTION. **Sec. 224.** The tax under section 223(2) of this
15 act will be based on a vehicle's emissions of hydrocarbons, carbon
16 monoxide, oxides of nitrogen, and carbon dioxide weighted relative to
17 the emissions of other new motor vehicles in the class. The state
18 energy office shall calculate the tax for each new vehicle based on its
19 total emissions relative to other vehicles in the same class. In
20 calculating a schedule of taxes, the state energy office shall, in
21 consultation with the department of ecology, utilize United States
22 environmental protection agency estimates of emissions per mile of each
23 pollutant. The schedule shall be updated annually, in order to
24 incorporate new information on emissions. The maximum tax imposed on
25 a new vehicle under this section is two hundred fifty dollars, except
26 this maximum tax shall be adjusted annually to account for inflation as
27 determined by the state office of the economic and revenue forecast
28 council.

1 NEW SECTION. **Sec. 225.** The excise tax imposed by section
2 233(2) of this act is due and payable by the vehicle manufacturer to
3 the department of revenue or its agents quarterly as determined by the
4 department of revenue. Automobiles and light pick-up trucks will be
5 considered separate classes for the purposes of the emission fee
6 imposed by section 223(2) of this act.

7 NEW SECTION. **Sec. 226.** (1) Each new motor vehicle dealer in
8 the state shall before the twenty-fifth day of February, May, August,
9 and November of each year, commencing with November 1991, advise the
10 department of revenue of the make, model, body type, engine type, and
11 displacement and transmission type as specified on the United States
12 environmental protection agency fuel economy label of the new motor
13 vehicles delivered to them by vehicle manufacturers or the distribution
14 companies of manufacturers during the preceding calendar quarter ending
15 on the last day of March, June, September, and December, respectively.
16 The department of revenue may collect the excise tax imposed by section
17 223(1) of this act based upon the information provided by the new motor
18 vehicle dealers.

19 (2) Chapter 82.32 RCW applies to the tax imposed by this chapter,
20 in addition to any other provisions of law for the payment and
21 enforcement of the tax imposed by this chapter. The department of
22 revenue shall by rule provide for the effective administration of this
23 chapter.

24 NEW SECTION. **Sec. 227.** (1)(a) The air pollution control
25 account is established in the state treasury. The moneys deposited
26 into the air pollution control account from revenues under section 223
27 of this act may be used by the state energy office, the department, and

1 local air authorities to develop and implement the provisions of this
2 chapter.

3 (b) Money in the air pollution control account shall be expended by
4 the state energy office or the department of ecology subject to
5 legislative appropriation. All earnings of investments of balances in
6 the air pollution control account shall be credited to the general
7 fund. The amounts collected and allocated in accordance with this
8 section shall be expended upon appropriation and in accordance with the
9 following limitations:

10 Portions of moneys received by the department from the air
11 pollution control account shall be distributed by the department to
12 local authorities based on:

13 (i) The level and extent of motor vehicle related air quality
14 problems within such authority's jurisdiction;

15 (ii) The costs associated with implementing motor vehicle related
16 programs by such authority; and

17 (iii) The amount of funding available to such authority from other
18 sources, whether state, federal, or local, that could be used to
19 implement motor vehicle related programs.

20 (2) On the first day of the months of January, April, July, and
21 October of each year the department of revenue shall deposit all excise
22 taxes collected under this chapter into the air pollution control
23 account.

24 NEW SECTION. **Sec. 228.** The state energy office shall publish
25 annually, for each new automobile and light truck make, model, body
26 type, engine type, and displacement and transmission type, the
27 emissions excise tax for that vehicle; the maximum and minimum
28 emissions excise tax for vehicles of the same vehicle class as defined
29 by the United States environmental protection agency; the estimated

1 total emissions of hydrocarbons, carbon monoxide, oxides of nitrogen
2 and carbon dioxide for that vehicle over one hundred thousand miles;
3 and the maximum and minimum total emissions for vehicles of the same
4 vehicle class. This information shall be distributed to all new motor
5 vehicle dealers along with a form for the display of this information.
6 New motor vehicle dealers shall prominently display this information
7 for each new vehicle on the vehicle using the prescribed form.

8 NEW SECTION. **Sec. 229.** Sections 221 through 228 of this act
9 shall constitute a new chapter in Title 82 RCW.

10 NEW SECTION. **Sec. 230.** A new section is added to chapter 70.120
11 RCW to read as follows:

12 It is the intent of the legislature that the state take advantage
13 of the best control systems available on new motor vehicles. The
14 department shall ensure that beginning with the 1994 model year, new
15 motor vehicles sold in Washington meet the same emission standards as
16 new vehicles sold in the state of California.

17 NEW SECTION. **Sec. 231.** The department of ecology shall
18 contract with Western Washington University for the biennium ending
19 June 30, 1993, for research and development of alternative fuel and
20 solar powered vehicles. A report on the progress of such research
21 shall be presented to the standing environmental committees and the
22 department by January 1, 1994.

23 III.

24 INDUSTRIAL AND COMMERCIAL SOURCES

1 NEW SECTION. **Sec. 301.** A new section is added to chapter 70.94
2 RCW to read as follows:

3 The department of ecology, or board of an authority, shall require
4 renewable permits for the construction, installation, establishment,
5 modification, or operation of air containment sources subject to the
6 following conditions and limitations:

7 (1) The permits shall be issued for a period of five years.
8 Permits may be reissued if new federal or state statutes specifically
9 requiring revisions to a permit are enacted or during the first five
10 years of the permit program where necessary to ease administrative
11 burdens on a permitting agency or source. Permits may also be revised
12 at any time at the request of the source owner.

13 (2) "Best available control technology" is required in permits for
14 all new and modified sources and best available retrofit technology is
15 required in permits for all existing sources. Control technology may
16 only be redefined at time of permit renewal. "Best available retrofit
17 control technology" means an emission limitation that is based on the
18 maximum degree of reduction achievable, taking into account
19 environmental, energy, and economic impacts by and on a source.

20 (3) Rules establishing content and minimum requirements for a
21 state-wide permit program and the process for permit application and
22 renewal consistent with federal requirements shall be established by
23 the department by July 1, 1992.

24 (4) Permits shall apply to all sources except single-family or
25 duplex dwellings (a) where required by the federal clean air act, (b)
26 for all new sources proposed after the effective date of this section,
27 and (c) for any source that may cause or contribute to air pollution in
28 such quantity as can reasonably be demonstrated by the department or
29 board of any authority to create a threat to the public health or
30 welfare. Subsection (4)(c) of this section applies only in areas

1 exceeding or threatened to exceed federal or state air quality
2 standards. For purposes of this section areas threatened to exceed air
3 quality standards shall mean areas projected by the department to
4 exceed such standards within five years. Prior to identifying
5 threatened areas the department shall hold a public hearing or hearings
6 within the proposed areas.

7 (5) Sources operated by government agencies are not exempt under
8 this section.

9 (6) For the purposes of this section "source" shall mean "point
10 source" and means a confined and discrete conveyance from which
11 pollutants are or may be discharged.

12 (7) Sources in existence as of the effective date of this section
13 shall be notified pursuant to rules adopted in subsection (3) of this
14 section of the need for a renewable permit and the process and
15 timetable for obtaining the permit. Existing sources shall be allowed
16 to operate under presently applicable standards and conditions until
17 such time as the permit for the existing source is issued.

18 (8) All permits shall be subject to public notice and comment.

19 (9) The procedures contained in chapter 43.21B RCW shall apply to
20 permit appeals. Sources shall be allowed to operate while permits are
21 under appeal.

22 (10) Failure to submit application for a permit as required by this
23 section, or failure to operate in accordance with conditions of the
24 permit shall result in penalties as provided for in RCW 70.94.430 and
25 70.94.431.

26 (11) The department or appropriate local authority shall provide in
27 writing to any source for which permit decisions will be delayed more
28 than ninety days after a complete application is received, (a) the
29 causes of the delay, (b) the time period that will elapse before a
30 decision is rendered including a reasonable schedule of time

1 requirements and steps necessary for the department or local authority
2 to reach such decision and, (c) a clear statement of corrective or
3 prospective actions that the source should take to secure the permit.
4 If the timetable in (b) of this subsection is exceeded by the
5 department or appropriate local authority for actions under its
6 control, provisions shall be made to allow for sources to proceed with
7 construction, installation, establishment, modification, or operation
8 in cases where severe economic damage would result from further delay
9 and no significant public health, safety, or environmental concerns are
10 involved.

11 (12) The fee schedule for industrial and commercial air pollution
12 sources under this section shall be based on the requirements of the
13 federal clean air act and shall be set by rule. All fees collected
14 shall be deposited in the air pollution control account created in
15 section 227 of this act. The initial fee shall be twenty-five dollars
16 multiplied by the annual permitted emissions of air contaminants from
17 the affected source. Fees shall be adjusted annually for inflation as
18 determined by the state office of the economic and revenue forecast
19 council. All sources subject to permits under this section and section
20 302 of this act shall be subject to emission fees. Fees may exceed
21 twenty-five dollars per ton only if necessary to adjust for inflation
22 or to cover permit program costs as determined by the federal clean air
23 act.

24 **Sec. 302.** RCW 70.94.152 and 1973 1st ex.s. c 193 s 2 are each
25 amended to read as follows:

26 (1) ~~((The department of ecology or board of any authority may~~
27 ~~require notice of the construction, installation, or establishment of~~

1 any new air contaminant sources except single family and duplex
2 dwellings. The department of ecology or board may require such notice
3 to be accompanied by a fee and determine the amount of such fee:
4 PROVIDED, That the amount of the fee may not exceed the cost of
5 reviewing the plans, specifications, and other information and
6 administering such notice: PROVIDED FURTHER, That any such notice
7 given)) A permit application required by section 301 of this act and
8 submitted to either the board or to the department of ecology shall
9 preclude a further ((notice)) submittal of an application to ((be given
10 to)) any ((other)) board or to the department of ecology. Within
11 thirty days of ((its)) receipt of such ((notice)) application, the
12 department of ecology or board may require, as a condition precedent to
13 the construction, installation, ((or)) establishment, modification, or
14 operation of the air contaminant source or sources covered thereby, the
15 submission of plans, specifications, and such other information as it
16 deems necessary ((in order)) to determine whether the proposed
17 construction, installation, ((or)) establishment, modification, or
18 operation will be in accord with applicable rules and regulations in
19 force ((pursuant to)) under this chapter, and will provide all known
20 available and reasonable methods of emission control. If on the basis
21 of plans, specifications, or other information required ((pursuant to))
22 under this section the department of ecology or board determines that
23 the proposed construction, installation, ((or)) establishment,
24 modification, or operation will not be in accord with this chapter or
25 the applicable ordinances, resolutions, rules, and regulations adopted
26 ((pursuant thereto)) under this chapter, or will not provide all known
27 available and reasonable means of emission control consistent with
28 section 301 of this act, it shall issue an order for the prevention of
29 the construction, installation, ((or)) establishment, or modification
30 of the air contaminant source or sources and deny the permit for the

1 operation of an air contaminant source. If on the basis of plans,
2 specifications, or other information required ~~((pursuant to))~~ under
3 this section, the department of ecology or board determines that the
4 proposed construction, installation, ~~((or))~~ establishment,
5 modification, or operation will be in accord with this chapter, and the
6 applicable ordinances, resolutions, rules, and regulations adopted
7 ~~((pursuant thereto and will provide all known available and reasonable~~
8 ~~methods of emission control))~~ under this chapter, it shall issue ~~((an~~
9 ~~order of approval of))~~ a permit for the construction, installation,
10 ~~((and))~~ establishment, modification, or operation of the air
11 contaminant source or sources, which ~~((order))~~ permit may provide such
12 conditions ~~((of operation))~~ as are reasonably necessary to assure the
13 maintenance of compliance with this chapter and the applicable
14 ordinances, resolutions, rules, and regulations adopted ~~((pursuant~~
15 ~~thereto))~~ under this chapter.

16 (2) For the purposes of this chapter, addition to or enlargement or
17 replacement of an air contaminant source, or any major alteration
18 ~~((therein))~~ of a source, shall be construed as construction or
19 installation or establishment of a new air contaminant source. The
20 determination~~((,))~~ required under subsection (1) of this section~~((, of~~
21 ~~whether a proposed construction, installation, or establishment will be~~
22 ~~in accord with this chapter and the applicable ordinances, resolutions,~~
23 ~~rules, and regulations adopted pursuant thereto))~~ shall include a
24 determination of whether the operation of the new air contaminant
25 source at the location proposed will cause any ambient air quality
26 standard to be exceeded.

27 (3) Nothing in this section shall be construed to authorize the
28 department of ecology or board to require the use of emission control
29 equipment or other equipment, machinery, or devices of any particular

1 type, from any particular supplier, or produced by any particular
2 manufacturer.

3 (4) Any features, machines, and devices constituting parts of or
4 called for by plans, specifications, or other information submitted
5 pursuant to subsection (1) (~~hereof~~) of this section shall be
6 maintained in good working order and operated in a manner to minimize
7 emissions.

8 (5) The absence of an ordinance, resolution, rule, or regulation,
9 or the failure to issue (~~an order pursuant to this section~~) a permit
10 under section 301 of this act or this section shall not relieve any
11 person from his or her obligation to comply with (~~any~~) applicable
12 emission control requirements or with any other provision of law.

13 NEW SECTION. Sec. 303. A new section is added to chapter 70.94
14 RCW to read as follows:

15 All sources not subject to permits under this section but emitting
16 more than ten tons of a criteria air contaminant or one ton of a
17 hazardous air pollutant, as identified by the federal clean air act,
18 per year shall be required to develop emission reduction plans for the
19 reduction of air contaminant emissions. A person with multiple
20 facilities may submit a single plan for one or more of those
21 facilities. The department shall adopt rules for preparation, format,
22 and approval process for these plans. The rules shall be, to the
23 extent possible, consistent with rules adopted by the department under
24 chapter 114, Laws of 1990. Where applicable hazardous substance
25 reduction plans required by chapter 114, Laws of 1990 shall constitute
26 full or partial compliance with these requirements. The rules shall
27 require the plan to address, where applicable, at a minimum the
28 following options: Process changes, product substitution, equipment
29 modifications, hazardous substance use reduction, recycling, and energy

1 efficiency. The plan shall contain but not be limited to a written
2 policy articulating corporate management or agency director support for
3 the plan and an executive summary documenting the scope, objectives,
4 and methods of emission reduction chosen. The appropriate local air
5 authority or the department shall approve the emission reduction plan
6 consistent with rules adopted under this section. Sources that
7 voluntarily install best available control technology and best
8 management practices for all emission points are exempt from the plans
9 under this subsection. Specific levels, quantities, or percentage
10 emission reduction shall not be required by these plans. Failure to
11 submit an adequate plan shall result in penalties as provided for in
12 RCW 70.94.430 and 70.94.431.

13 **Sec. 304.** RCW 70.94.155 and 1981 c 224 s 1 are each amended to
14 read as follows:

15 (1) As used in subsection (3) of this section, the term "bubble"
16 means an air pollution control system which permits aggregate
17 measurements of allowable emissions, for a single category of
18 pollutant, for emissions points from a specified emissions-generating
19 facility or facilities. Individual point source emissions levels from
20 such specified facility or facilities may be modified provided that the
21 aggregate limit for the specified sources is not exceeded.

22 (2) Whenever any regulation relating to emission standards or other
23 requirements for the control of emissions is adopted which provides for
24 compliance with such standards or requirements no later than a
25 specified time after the date of adoption of the regulation, the
26 appropriate activated air pollution control authority or, if there be
27 none, the department of ecology shall, by regulatory order, issue to

1 air contaminant sources subject to the standards or requirements,
2 schedules of compliance setting forth timetables for the achievement of
3 compliance as expeditiously as practicable, but in no case later than
4 the time specified in the regulation. Interim dates in such schedules
5 for the completion of steps of progress toward compliance shall be as
6 enforceable as the final date for full compliance therein.

7 (3) Wherever requirements necessary for the attainment of air
8 quality standards or, where such standards are not exceeded, for the
9 maintenance of air quality can be achieved through the use of a control
10 program involving the bubble concept, such program may be authorized by
11 a ~~((regulatory order or orders))~~ permit issued to the air contaminant
12 source or sources involved. Any such ~~((order))~~ permit provision shall
13 restrict total emissions within the bubble to no more than ninety
14 percent of what would otherwise be allowed in the aggregate for all
15 emitting processes covered. The ~~((orders))~~ permits provided for by
16 this subsection shall be issued by the department or the authority with
17 jurisdiction. If the bubble involves interjurisdictional approval,
18 concurrence in the total program must be secured from each regulatory
19 entity concerned.

20 **Sec. 305.** RCW 70.94.181 and 1983 c 3 s 176 are each amended to
21 read as follows:

22 (1) Any person who owns or is in control of any plant, building,
23 structure, establishment, process or equipment may apply to the
24 department of ecology ~~((where it has regulatory authority under RCW~~
25 ~~70.94.390, 70.94.395, 70.94.410, and 70.94.420,))~~ or appropriate local
26 authority board for a variance from rules or regulations governing the
27 quality, nature, duration or extent of discharges of air contaminants.

1 The application shall be accompanied by such information and data as
2 the department of ecology or board may require. The department of
3 ecology or board may grant such variance, provided that variances to
4 state rules shall require the department's approval prior to being
5 issued by a local authority board. Variances may be issued by either
6 the department or a local board but only after public hearing or due
7 notice, if ~~((it))~~ the department or board finds that:

8 (a) The emissions occurring or proposed to occur do not endanger
9 public health or safety or the environment; and

10 (b) Compliance with the rules or regulations from which variance is
11 sought would produce serious hardship without equal or greater benefits
12 to the public.

13 (2) No variance shall be granted pursuant to this section until the
14 department of ecology or board has considered the relative interests of
15 the applicant, other owners of property likely to be affected by the
16 discharges, and the general public.

17 (3) Any variance or renewal thereof shall be granted within the
18 requirements of subsection (1) of this section and for time periods and
19 under conditions consistent with the reasons therefor, and within the
20 following limitations:

21 (a) If the variance is granted on the ground that there is no
22 practicable means known or available for the adequate prevention,
23 abatement or control of the pollution involved, it shall be only until
24 the necessary means for prevention, abatement or control become known
25 and available, and subject to the taking of any substitute or alternate
26 measures that the department of ecology or board may prescribe.

27 ~~((If the application for variance shows that there is no~~
28 ~~automobile fragmentizer within a reasonable distance of the wrecking~~
29 ~~yard for which the variance is sought, a variance will be granted for~~
30 ~~a period not to exceed three years for commercial burning of automobile~~

1 hulks, subject to such conditions as the department of ecology may
2 impose as to climatic conditions and hours during which burning of such
3 hulks may be carried out: PROVIDED, HOWEVER, That any variance granted
4 hereunder shall be of no force and effect after July 1, 1970.

5 (e)) If the variance is granted on the ground that compliance with
6 the particular requirement or requirements from which variance is
7 sought will require the taking of measures which, because of their
8 extent or cost, must be spread over a considerable period of time, it
9 shall be for a period not to exceed such reasonable time as, in the
10 view of the department of ecology or board is requisite for the taking
11 of the necessary measures. A variance granted on the ground specified
12 herein shall contain a timetable for the taking of action in an
13 expeditious manner and shall be conditioned on adherence to such
14 timetable.

15 ((d)) (c) If the variance is granted on the ground that it is
16 justified to relieve or prevent hardship of a kind other than that
17 provided for in ((item)) (a)((, (b))) and ((e)) (b) of this
18 ((subparagraph)) subsection, it shall be for not more than one year.

19 (4) Any variance granted pursuant to this section may be renewed on
20 terms and conditions and for periods which would be appropriate on
21 initial granting of a variance. If complaint is made to the department
22 of ecology or board on account of the variance, no renewal thereof
23 shall be granted unless following a public hearing on the complaint on
24 due notice the state board or board finds that renewal is justified. No
25 renewal shall be granted except on application therefor. Any such
26 application shall be made at least sixty days prior to the expiration
27 of the variance. Immediately upon receipt of an application for
28 renewal, the department of ecology or board shall give public notice of
29 such application in accordance with rules ((and regulations)) of the
30 department of ecology or board.

1 (5) A variance or renewal shall not be a right of the applicant or
2 holder thereof but shall be granted at the discretion of the department
3 of ecology or board. However, any applicant adversely affected by the
4 denial or the terms and conditions of the granting of an application
5 for a variance or renewal of a variance by the department of ecology or
6 board may obtain judicial review thereof under the provisions of
7 chapter 34.05 RCW as now or hereafter amended.

8 (6) Nothing in this section and no variance or renewal granted
9 pursuant hereto shall be construed to prevent or limit the application
10 of the emergency provisions and procedures of RCW 70.94.710 through
11 70.94.730 to any person or his or her property.

12 (7) An application for a variance, or for the renewal thereof,
13 submitted to the department of ecology or board pursuant to this
14 section shall be approved or disapproved by the department or board
15 within sixty-five days of receipt unless the applicant and the
16 department of ecology or board agree to a continuance.

17 **Sec. 306.** RCW 70.94.205 and 1973 1st ex.s. c 193 s 4 are each
18 amended to read as follows:

19 Whenever any records or other information, other than ambient air
20 quality data or emission data, furnished to or obtained by the
21 department of ecology or the board of any authority (~~((pursuant to any~~
22 ~~sections in chapter 70.94 RCW))~~ under this chapter, relate to processes
23 or production unique to the owner or operator, ~~((or))~~ is likely to
24 affect adversely the competitive position of such owner or operator if
25 released to the public or to a competitor, and the owner or operator of
26 such processes or production so certifies, such records or information
27 shall be only for the confidential use of the department of ecology or

1 board. Nothing herein shall be construed to prevent the use of records
2 or information by the department of ecology or board in compiling or
3 publishing analyses or summaries relating to the general condition of
4 the outdoor atmosphere: PROVIDED, That such analyses or summaries do
5 not reveal any information otherwise confidential under the provisions
6 of this section: PROVIDED FURTHER, That emission data furnished to or
7 obtained by the department of ecology or board shall be correlated with
8 applicable emission limitations and other control measures and shall be
9 available for public inspection during normal business hours at offices
10 of the department of ecology or board.

11 NEW SECTION. **Sec. 307.** (1) In order to address the goal of
12 preserving, protecting, and enhancing air quality the legislature
13 intends to utilize a variety of approaches to reduce pollution, enhance
14 environmental quality, and provide a sound basis for economic growth.
15 The use of economic incentives is a powerful new approach that could
16 reduce pollution and promote resource protection efficiently.

17 The legislature wishes to evaluate economic incentives designed to
18 allow the state to obtain air pollution reduction for the lowest
19 possible cost to society, to create a long-term incentive for
20 innovation which protects the environment, to cause prices to
21 appropriately reflect the environmental costs imposed on society, and
22 to reduce capital losses due to uncertainty and inappropriate
23 investment.

24 (2) "Economic incentives" means pricing mechanisms intended to
25 incorporate the environmental costs and benefits of market behavior
26 into market decisions and thus to promote innovation and resource
27 recovery, to alter the way the market interacts with the environment,
28 and to diminish damages to the environment. These pricing mechanisms
29 may include but are not limited to subsidies, taxes, fees, deposit

1 systems, marketable permits, preconsumption disposal payments, and
2 altering capital rates and terms.

3 (3) The department in consultation with the department of trade and
4 economic development shall contract for a study to assess the
5 availability and effectiveness of economic incentives to reduce,
6 control, and prevent air contaminant emissions.

7 (4) The study shall be completed by July 1, 1992, and be provided
8 to the governor's office, the legislature, the standing environmental
9 committees, and the department of ecology upon completion.

10 (5) The study shall include but not be limited to:

11 (a) A listing of air pollution related market incentives in place
12 or scheduled for use in other states and/or countries;

13 (b) An assessment of the effectiveness in terms of air pollution
14 reduction of the incentives listed in subsection (3) of this section;

15 (c) Recommendations of strategies most appropriate and effective
16 for use in Washington state and mechanisms for implementing these
17 strategies including identifying where statutory changes are necessary.

18 NEW SECTION. **Sec. 308.** A new section is added to chapter 70.94
19 RCW to read as follows:

20 The department shall establish a technical assistance unit within
21 its air quality program to provide the regulated community, especially
22 small businesses with:

23 (1) Information on air pollution laws, regulations, compliance
24 methods, and technologies;

25 (2) Information on air pollution prevention methods and
26 technologies, and prevention of accidental releases;

27 (3) Assistance in obtaining permits and developing emission
28 reduction plans;

1 (4) Information on the health and environmental effects of air
2 pollution.

3 **Sec. 309.** RCW 70.94.211 and 1974 ex.s. c 69 s 4 are each amended
4 to read as follows:

5 Whenever the board or the control officer has reason to believe
6 that any provision of this chapter or any ordinance, resolution, rule
7 or regulation relating to the control or prevention of air pollution
8 has been violated, such board or control officer may cause written
9 notice to be served upon the alleged violator or violators. The notice
10 shall specify the provision of this chapter or the ordinance,
11 resolution, rule or regulation alleged to be violated, and the facts
12 alleged to constitute a violation thereof, and may include an order
13 that necessary corrective action be taken within a reasonable time. In
14 lieu of an order, the board or the control officer may require that the
15 alleged violator or violators appear before the board for a hearing, or
16 in addition to or in place of an order or hearing, the board may
17 initiate action pursuant to RCW 70.94.425, 70.94.430, 70.94.431, and
18 70.94.435.

19 **Sec. 310.** RCW 70.94.430 and 1984 c 255 s 1 are each amended to
20 read as follows:

21 Any person who violates any of the provisions of this chapter or
22 chapter 70.120 RCW, or any ordinance, resolution, ~~((rule))~~ or
23 regulation in force pursuant thereto shall be guilty of a
24 ~~((misdemeanor))~~ crime and upon conviction thereof shall be punished by

1 a fine of not more than ~~((one))~~ ten thousand dollars and costs of
2 investigation and prosecution, or by imprisonment in the county jail
3 for not more than ~~((ninety days))~~ one year, or by both fine and
4 imprisonment for each separate violation. Maximum penalties shall be
5 reserved for persons who willfully violate such provisions, ordinances,
6 resolutions, or regulations.

7 ~~((Any person who wilfully violates any of the provisions of this~~
8 ~~chapter or any ordinance, resolution, rule or regulation in force~~
9 ~~pursuant thereto shall be guilty of a gross misdemeanor. Upon~~
10 ~~conviction the offender shall be punished by a fine of not less than~~
11 ~~one hundred dollars for each offense or by imprisonment for a term of~~
12 ~~not more than one year or by both fine and imprisonment.))~~

13 In case of a continuing violation, whether or not willfully
14 committed, each day's continuance shall be a separate and distinct
15 violation.

16 Persons who knowingly fail to disclose a potential conflict of
17 interest under section 704(5) of this act shall be guilty of a gross
18 misdemeanor.

19 **Sec. 311.** RCW 70.94.431 and 1990 c 157 s 1 are each amended to
20 read as follows:

21 (1) In addition to or as an alternate to any other penalty provided
22 by law, any person who violates any of the provisions of this chapter
23 ~~((70.94 RCW))~~ or any of the rules ~~((and regulations))~~ of the department
24 or the board shall incur a civil penalty in an amount not to exceed
25 ~~((one))~~ ten thousand dollars per day for each violation. Each such
26 violation shall be a separate and distinct offense, and in case of a
27 continuing violation, each day's continuance shall be a separate and

1 distinct violation. (~~For the purposes of this subsection, the maximum~~
2 ~~daily fine imposed by a local board for violations of standards by a~~
3 ~~specific emissions unit is one thousand dollars.~~)

4 A person who fails to take action as specified by an order issued
5 pursuant to this chapter shall be liable for a civil penalty of not
6 more than ten thousand dollars for each day of continued noncompliance.

7 Penalties incurred, if unpaid after ninety days, shall be subject
8 to the maximum interest charges allowed by law. If violations and
9 penalties are appealed, no interest shall accrue until the appeal is
10 resolved.

11 The maximum penalty may be increased annually to account for
12 inflation as determined by the state office of the economic and revenue
13 forecast council.

14 (2) (~~Further, the person is subject to a fine of up to five~~
15 ~~thousand dollars to be levied by the director of the department of~~
16 ~~ecology if requested by the board of a local authority or if the~~
17 ~~director determines that the penalty is needed for effective~~
18 ~~enforcement of this chapter. A local board shall not make such a~~
19 ~~request until notice of violation and compliance order procedures have~~
20 ~~been exhausted, if such procedures are applicable. For the purposes of~~
21 ~~this subsection, the maximum daily fine imposed by the department of~~
22 ~~ecology for violations of standards by a specific emissions unit is~~
23 ~~five thousand dollars.~~

24 (3)) Each act of commission or omission which procures, aids or
25 abets in the violation shall be considered a violation under the
26 provisions of this section and subject to the same penalty. The
27 penalties provided in this section shall be imposed pursuant to RCW
28 43.21B.300.

29 ((4)) (3) All penalties recovered under this section by the
30 department shall be paid into the state treasury and credited to the

1 ~~((general fund))~~ air pollution control account established in section
2 227 of this act or, if recovered by the authority, shall be paid into
3 the treasury of the authority and credited to its funds. If a prior
4 penalty for the same violation has been paid to a local authority, the
5 penalty imposed by the department under subsection ~~((+2))~~ (1) of this
6 section shall be reduced by the amount of the payment.
7 ~~((Notwithstanding any other provisions of this chapter, no penalty may~~
8 ~~be levied for the violation of any opacity standard in an amount~~
9 ~~exceeding four hundred dollars per day.~~

10 ~~(5))~~ (4) To secure the penalty incurred under this section, the
11 state or the authority shall have a lien on any vessel used or operated
12 in violation of this chapter which shall be enforced as provided in RCW
13 60.36.050.

14 (5) Public or private entities that are recipients or potential
15 recipients of department grants, whether for air quality related
16 activities or not, may have such grants rescinded or withheld by the
17 department for failure to comply with provisions of this chapter.

18 (6) In addition to other penalties provided by this chapter,
19 persons found under-reporting emissions or other information used to
20 set fees, or persons required to pay emission or permit fees who are
21 more than ninety days late with such payments may be subject to a
22 penalty equal to three times the amount of the original fee owed.

23 **Sec. 312.** RCW 70.94.860 and 1984 c 164 s 2 are each amended to
24 read as follows:

25 The department of ecology may accept delegation of the prevention
26 of significant deterioration program ~~((pursuant to Part C, Subpart 1~~
27 ~~of))~~ as provided for in the federal clean air act. The department may,

1 in turn, delegate this program to the local authority with jurisdiction
2 in a given area.

3 **Sec. 313.** RCW 70.94.875 and 1985 c 456 s 3 are each amended to
4 read as follows:

5 The department of ecology, in consultation with the ((joint
6 ~~legislative committee on science and technology or the~~)) appropriate
7 committees of the house of representatives and of the senate, shall:

8 (1) Continue evaluation of information and research on acid
9 deposition in the Pacific Northwest region;

10 (2) Establish critical levels of acid deposition and lake, stream,
11 and soil acidification; and

12 (3) Notify the legislature if acid deposition or lake, stream, and
13 soil acidification reaches the levels established under subsection (2)
14 of this section.

15 IV.

16 OUTDOOR BURNING

17 **Sec. 401.** RCW 70.94.745 and 1972 ex.s. c 136 s 2 are each amended
18 to read as follows:

19 It shall be the responsibility and duty of the department of
20 natural resources, department of ecology, department of agriculture,
21 fire districts, and local air pollution control authorities to
22 establish, through regulations, ordinances, or policy, a limited

1 burning program for the people of this state, consisting of a one-
2 permit system, until such time as ~~((an))~~ alternate technology or
3 methods of disposing of the organic refuse ~~((described in this chapter~~
4 ~~shall))~~ have been developed ~~((which is))~~ that are reasonably economical
5 and less harmful to the environment. It is the policy of this state to
6 ~~((encourage the fostering and development of such))~~ foster and
7 encourage development of alternate methods or technology for disposing
8 of or reducing the amount of organic refuse.

9 NEW SECTION. Sec. 402. A new section is added to chapter 70.94
10 RCW to read as follows:

11 (1) Consistent with the policy of the state to reduce outdoor
12 burning to the greatest extent practical:

13 (a) Outdoor burning shall not be allowed in any area of the state
14 where federal or state ambient air quality standards are exceeded for
15 pollutants emitted by outdoor burning.

16 (b) Outdoor burning shall not be allowed in any urban growth area
17 as defined by RCW 36.70A.030, or any city of the state having a
18 population greater than ten thousand people if such cities are
19 threatened to exceed state or federal air quality standards, and
20 alternative disposal practices consistent with good solid waste
21 management are reasonably available or practices eliminating production
22 of organic refuse are reasonably available. In no event shall such
23 burning be allowed after December 31, 2000.

24 (2) "Outdoor burning" means a combustion of material of any type in
25 the outdoors in the open, not in an enclosure, where the productions of
26 combustion are not directed through a flue.

27 NEW SECTION. Sec. 403. A new section is added to chapter 70.94
28 RCW to read as follows:

1 (1) The department of natural resources shall administer a program
2 to reduce state-wide emissions from prescribed forest burning so as to
3 achieve the following minimum objectives:

4 (a) Twenty percent reduction by December 31, 1994; and

5 (b) Fifty percent reduction by December 31, 2000.

6 Reductions shall be calculated from the average annual emissions
7 level from calendar years 1985 to 1990, using the same methodology for
8 both reduction and base year calculations.

9 "Prescribed forest burning" means the permitted burning of wood
10 fiber on forest lands.

11 (2) The department of natural resources, within twelve months after
12 the effective date of this section, shall develop a plan, in
13 conjunction with the department of ecology and public and private land
14 owners engaged in prescribed forest burning, to carry out the program
15 as described in this section.

16 The plan shall recognize the variations in prescribed forest
17 burning including, but not limited to, objectives of burning,
18 geographic region, climate, elevation and slope, proximity to populated
19 areas, and diversity of land ownership. The plan shall establish
20 priorities that the department shall use to allocate allowable
21 emissions.

22 The emission reductions in this section are to apply to all forest
23 lands including those owned and managed by the United States. If the
24 United States does not satisfactorily participate in implementing the
25 plan, the departments of natural resources and ecology shall use all
26 appropriate and available enforcement powers to ensure participation
27 until such time as satisfactory participation occurs. The contribution
28 of emissions from such lands shall be deleted from the calculation of
29 the base period and the percentage reductions.

1 The plan shall include a tracking system designed to measure the
2 degree of progress toward the emission reductions goals set in this
3 section. Emissions are to be measured by the department of natural
4 resources based on the best available methods of estimation. The
5 department of natural resources shall report annually to the department
6 of ecology and the legislature on the status of the plan, emission
7 reductions and progress toward meeting the objectives specified in this
8 section, and the goals of this chapter and chapter 76.04 RCW.

9 (3) If the December 31, 1994, emission reductions targets in this
10 section are not met, the department of natural resources, in
11 consultation with the department of ecology, shall use its authority
12 granted in this chapter and chapter 76.04 RCW to immediately limit
13 emissions from such burning to the 1994 target levels and limit
14 prescribed forest burning in subsequent years to achieve equal annual
15 incremental reductions so as to achieve the December 31, 2000, target
16 level. If, as a result of the program established in this section, the
17 emission reductions are met in 1994, but are not met by December 31,
18 2000, the department of natural resources in consultation with the
19 department of ecology shall immediately limit prescribed forest burning
20 to reduce emissions from such burning to the December 31, 2000, target
21 level in all subsequent years.

22 **Sec. 404.** RCW 70.94.660 and 1971 ex.s. c 232 s 2 are each amended
23 to read as follows:

24 (1) The department of natural resources shall have the
25 responsibility for issuing and regulating burning permits required by
26 it relating to the following activities ~~((declared to be))~~ for the

1 protection of life or property and/or ~~((in))~~ for the public health,
2 safety, and welfare:

3 ~~((1))~~ (a) Abating a forest fire hazard;

4 ~~((2))~~ (b) Prevention of a fire hazard;

5 ~~((3))~~ (c) Instruction of public officials in methods of forest
6 fire fighting; and

7 ~~((4))~~ (d) Any silvicultural operation to improve the forest lands
8 of the state.

9 (2) The department of natural resources shall not retain such
10 authority, but it shall be the responsibility of the department of
11 ecology or the appropriate local authority for permitting and
12 regulating outdoor burning on unimproved lands where the department of
13 natural resources does not have fire protection responsibility for such
14 lands.

15 (3) Permit fees shall be assessed for silvicultural and related
16 burning under the jurisdiction of the department of natural resources
17 and shall be set by rule and collected by the department of natural
18 resources at the time the permit as provided for in this section is
19 issued. All fees shall be deposited in the air pollution control
20 account, created in section 227 of this act. The amount collected by
21 these permit fees or as much of such fees as the legislature deems
22 necessary shall be appropriated to the departments of natural resources
23 and ecology for the purposes of enforcing and administering the
24 provisions of this chapter related to such burning. Fees shall be set
25 by rule by the department of natural resources at the level necessary
26 to cover the costs of administering and enforcing the permit program
27 and providing funds for research into alternatives to burning.
28 Exemption from permit fees shall be provided for landholders who employ
29 laid off timber workers in slash reduction, utilization, and nonburning
30 slash disposal activities.

1 **Sec. 405.** RCW 70.94.670 and 1971 ex.s. c 232 s 3 are each amended
2 to read as follows:

3 The department of natural resources in granting burning permits for
4 fires for the purposes set forth in RCW 70.94.660 shall condition the
5 issuance and use of such permits to comply with air quality standards
6 established by the department of ecology after full consultation with
7 the department of natural resources. Such burning shall not cause the
8 state air quality standards (~~((for suspended particulate matter))~~) to be
9 exceeded in the ambient air up to two thousand feet above ground level
10 over critical areas designated by the department of ecology, otherwise
11 subject to air pollution from other sources. Air quality standards
12 (~~((for suspended particulate matter))~~) shall be established and published
13 by the department of ecology which shall also establish a procedure for
14 advising the department of natural resources when and where the air
15 exceeds or threatens to exceed the ambient air standards over such
16 critical areas. The (~~((suspended particulate matter))~~) air quality shall
17 be quantitatively measured by the department of ecology or the
18 appropriate local air pollution control authority at established
19 (~~((primary air mass stations or primary ground level))~~) monitoring
20 stations over such designated areas. Further, such permitted burning
21 shall not cause damage to public health or the environment, or
22 unreasonably interfere with enjoyment of property or natural resources
23 of the state. All permits issued under this section shall be subject
24 to all applicable fees, permitting, penalty, and enforcement provisions
25 of this chapter. The department of natural resources shall set forth
26 smoke dispersal objectives designed consistent with this section to
27 minimize any air pollution (~~((from smoke))~~) from such burning and the
28 procedures necessary to meet those objectives.

1 The department of natural resources shall aggressively encourage
2 more intense utilization in logging and alternative silviculture
3 practices to reduce ~~((forest fire hazards and shall encourage~~
4 ~~development and use of procedures and equipment to burn forest debris~~
5 ~~in a manner that will produce less smoke))~~ the need for burning. The
6 department of natural resources shall, whenever practical,
7 ~~((encourage))~~ require development and use of alternative acceptable
8 disposal methods subject to the following priorities: (1) slash
9 production minimization, (2) slash utilization, (3) nonburning
10 disposal, (4) slash burning. Such alternative methods shall be
11 evaluated as to the relative impact on air, water, and land pollution,
12 public health, and their financial feasibility.

13 The department of natural resources shall not issue burning permits
14 and shall revoke previously issued permits at any time in any area
15 where the department of ecology or local board has declared a stage of
16 impaired air quality as defined in RCW 70.94.473.

17 **Sec. 406.** RCW 70.94.690 and 1971 ex.s. c 232 s 5 are each amended
18 to read as follows:

19 In the regulation of outdoor burning not included in RCW 70.94.660
20 requiring permits from the department of natural resources, said
21 department and the state, local, or regional air pollution control
22 authorities will cooperate in regulating such burning so as to minimize
23 insofar as possible duplicate inspections and separate permits while
24 still accomplishing the objectives and responsibilities of the
25 respective agencies.

26 Permits shall be withheld by the department of natural resources
27 when so requested by the department of ecology if a forecast, alert,

1 warning, or emergency condition exists as defined in the episode
2 criteria of the department of ecology.

3 NEW SECTION. **Sec. 407.** A new section is added to chapter 70.94
4 RCW to read as follows:

5 Nothing contained in this chapter shall prohibit Indian ceremonial
6 fires or the sending of smoke signals if part of a religious ritual.
7 Permits issued for burning under this section shall be drafted to
8 minimize emissions including denial of permission to burn during
9 periods of adverse meteorological conditions.

10 **Sec. 408.** RCW 70.94.650 and 1971 ex.s. c 232 s 1 are each amended
11 to read as follows:

12 (1) Any person who proposes to set fires in the course of ~~((the~~
13 ~~following:~~

14 ~~((1)))~~ (a) weed abatement,

15 ~~((2)))~~ (b) instruction in methods of fire fighting (except forest
16 fires), or

17 ~~((3) Disease prevention relating to))~~ (c) agricultural activities,
18 shall, prior to carrying out the same, obtain a permit from an air
19 pollution control authority or the department of ecology, as
20 appropriate. Each such authority and the department of ecology shall,
21 by rule or ordinance, establish a permit system to carry out the
22 provisions of this section except as provided in RCW 70.94.660.
23 General criteria of state-wide applicability for ruling on such permits
24 shall be established by the department, by rule ~~((or regulation)),~~
25 after consultation with the various air pollution control authorities.
26 Permits shall be issued under this section based on seasonal operations

1 or by individual operations, or both(~~(: PROVIDED, That)~~). All permits
2 so issued shall be conditioned to insure that the public interest in
3 air, water, and land pollution and safety to life and property is fully
4 considered. In addition to any other requirements established by the
5 department to protect air quality pursuant to other laws, applicants
6 for permits must show that the setting of fires as requested is the
7 most reasonable procedure to follow in safeguarding life or property
8 under all circumstances or is otherwise reasonably necessary to
9 successfully carry out the enterprise in which the applicant is engaged
10 (~~(in)~~), or both. All burning permits will be designed to minimize air
11 pollution insofar as practical. Nothing in this section shall relieve
12 the applicant from obtaining permits, licenses, or other approvals
13 required by any other law(~~(: PROVIDED FURTHER, That)~~). An application
14 for a permit to set fires in the course of agricultural burning for
15 controlling diseases, insects, (~~(and)~~) or development of physiological
16 conditions conducive to increased crop yield, shall be (~~(granted)~~)
17 acted upon within fourteen days from the date such application is
18 filed(~~(: PROVIDED, That nothing herein shall prevent a householder from~~
19 ~~setting fire in the course of burning leaves, clippings or trash when~~
20 ~~otherwise permitted locally. Nothing contained herein shall prohibit~~
21 ~~Indian campfires or the sending of smoke signals if part of a religious~~
22 ~~ritual)~~).

23 (2) Permit fees shall be assessed for outdoor burning under this
24 section and shall be collected by the department of ecology or the
25 appropriate local air authority at the time the permit is issued. All
26 fees collected shall be deposited in the air pollution control account
27 created in section 227 of this act. Fees shall be set by rule by the
28 permitting authority at the level necessary to cover the costs of
29 administering and enforcing the permit programs, to provide funds for
30 research into alternative methods to reduce emissions from such

1 burning, and to the extent possible be consistent with fees charged for
2 such burning permits in neighboring states.

3 (3) Conservation districts and agricultural extension agents in
4 conjunction with the department shall develop public education material
5 for the agricultural community identifying the health and environmental
6 affects of agricultural outdoor burning and providing technical
7 assistance in alternatives to agricultural outdoor burning.

8 **Sec. 409.** RCW 70.94.654 and 1973 1st ex.s. c 193 s 6 are each
9 amended to read as follows:

10 Whenever the department of ecology shall find that any county or
11 conservation district which is outside the jurisdictional boundaries of
12 an activated air pollution control authority is capable of effectively
13 administering the issuance and enforcement of permits for any or all of
14 the kinds of burning identified in RCW 70.94.650 (~~((1) and (3))~~) and
15 desirous of doing so, the department of ecology may delegate (~~(all)~~)
16 powers necessary for the issuance (~~(and)~~) or enforcement, or both, of
17 permits for any or all of the kinds of burning to the county(~~(+~~
18 ~~PROVIDED, That~~)) or conservation district. Such delegation may be
19 withdrawn by the department of ecology upon (~~(a)~~) its finding that the
20 county or conservation district is not effectively administering the
21 permit program.

22 **Sec. 410.** RCW 70.94.775 and 1974 ex.s. c 164 s 1 are each amended
23 to read as follows:

24 No person shall cause or allow any outdoor fire:

1 (1) Containing garbage, dead animals, asphalt, petroleum products,
2 paints, rubber products, plastics, or any substance other than natural
3 vegetation ((which)) that normally emits dense smoke or obnoxious odors
4 ((~~except as provided in RCW 70.94.650: PROVIDED, That~~)). Agricultural
5 heating devices ((which)) that otherwise meet the requirements of this
6 chapter shall not be considered outdoor fires under this section;

7 (2) During a forecast, alert, warning or emergency condition as
8 defined in RCW 70.94.715 or impaired air quality condition as defined
9 in RCW 70.94.473;

10 (3) In any area which has been designated by the department of
11 ecology or board of an activated authority as an area exceeding or
12 threatening to exceed state or federal ambient air quality standards(~~(~~
13 ~~or after July 1, 1976, state ambient air quality goals for~~
14 ~~particulates)~~), except instructional fires permitted by RCW
15 70.94.650(2).

16 **Sec. 411.** RCW 70.94.780 and 1973 1st ex.s. c 193 s 10 are each
17 amended to read as follows:

18 In addition to any other powers granted to them by law, the fire
19 protection agency, county, or conservation district authorized to issue
20 burning permits ((may)) shall regulate or prohibit outdoor burning in
21 order to prevent or abate the nuisances caused by such burning. No
22 fire protection agency, county, or conservation district may issue a
23 burning permit in an area where the department or local board has
24 declared any stage of impaired air quality per RCW 70.94.473 or any
25 stage of an air pollution episode. All burning permits issued shall be
26 subject to all applicable fee, permitting, penalty, and enforcement
27 provisions of this chapter. The permitted burning shall not cause

1 damage to public health or the environment, or unreasonably interfere
2 with enjoyment of property or the natural resources of the state.

3 **Sec. 412.** RCW 70.94.750 and 1972 ex.s. c 136 s 3 are each amended
4 to read as follows:

5 The following outdoor fires described in this section may be burned
6 subject to the provisions of (~~the program established pursuant to RCW~~
7 ~~70.94.755 for any area~~) this chapter and also subject to city
8 ordinances, county resolutions, (~~and~~) rules (~~and regulations~~) of
9 fire districts and laws, and rules (~~and regulations~~) enforced by the
10 department of natural resources:

11 (1) Fires consisting of leaves, clippings, prunings and other yard
12 and gardening refuse originating on lands immediately adjacent and in
13 close proximity to a human dwelling and burned on such lands by the
14 property owner or his or her designee.

15 (2) Fires consisting of residue of a natural character such as
16 trees, stumps, shrubbery or other natural vegetation arising from land
17 clearing projects or agricultural pursuits for pest or disease control;
18 provided the fires described in this subsection may be prohibited in
19 those areas having a general population density of one thousand or more
20 persons per square mile.

21 V.

22 WOODSTOVES AND FIREPLACES

23 **Sec. 501.** RCW 70.94.457 and 1987 c 405 s 4 are each amended to
24 read as follows:

1 (~~Before January 1, 1988,~~) The department of ecology shall
2 establish by rule under chapter 34.05 RCW:

3 (1) State-wide emission performance standards for new wood stoves.
4 Notwithstanding any other provision of this chapter which allows an
5 authority to adopt more stringent emission standards, no authority
6 shall adopt any emission standard for new wood stoves other than the
7 state-wide standard adopted by the department under this section.

8 (a) (~~For new wood stoves sold after July 1, 1988, the state-wide~~
9 ~~performance standard, by rule, shall be the equivalent of and~~
10 ~~consistent with state-wide emission standards in effect in bordering~~
11 ~~states on or before January 1, 1987. For solid fuel burning devices~~
12 ~~for which bordering states have not established emission standards, the~~
13 ~~department may temporarily exempt or establish, by rule, state-wide~~
14 ~~standards including emission levels and test procedures for such~~
15 ~~devices and such emission levels and test procedures shall be~~
16 ~~equivalent to emission levels per pound per hour burned for other new~~
17 ~~wood stoves regulated by this subsection)) After January 1, 1995, no
18 solid fuel burning device shall be offered for sale that has
19 particulate air contaminant emissions exceeding two grams per hour and
20 after January 1, 2000, no device shall exceed a particulate emissions
21 level of 0.5 grams per hour.~~

22 (b) Notwithstanding (a) of this subsection, the department is
23 authorized to adopt, by rule, emission standards adopted by the United
24 States environmental protection agency for new wood stoves sold at
25 retail. For solid fuel burning devices for which the United States
26 environmental protection agency has not established emission standards,
27 the department may (~~temporarily~~) exempt or establish, by rule, state-
28 wide standards including emission levels and test procedures for such
29 devices and such emission levels and test procedures shall be

1 equivalent to emission levels per pound per hour burned for other new
2 wood stoves regulated under this subsection.

3 (2) A program to:

4 (a) Determine whether a new wood stove complies with the state-wide
5 emission performance standards established in subsection (1) of this
6 section; and

7 (b) Approve the sale of stoves that comply with the state-wide
8 emission performance standards.

9 **Sec. 502.** RCW 70.94.470 and 1987 c 405 s 5 are each amended to
10 read as follows:

11 (1) ~~((Before January 1, 1988,))~~ The department shall establish, by
12 rule under chapter 34.05 RCW, ~~((state wide opacity levels for~~
13 ~~residential solid fuel burning devices as follows:~~

14 ~~(a) A state wide opacity level of twenty percent for the purpose of~~
15 ~~public education;~~

16 ~~(b) Until July 1, 1990, a state wide opacity level of forty percent~~
17 ~~for the purpose of enforcement on a complaint basis; and~~

18 ~~(c) After July 1, 1990, a)~~ (a) state-wide opacity level of twenty
19 percent for residential solid fuel burning devices for the purpose of
20 enforcement on a complaint basis and (b) after July 1, 1995, a state-
21 wide opacity of ten percent for purposes of enforcement on a complaint
22 basis.

23 (2) Notwithstanding any other provision of this chapter which may
24 allow an authority to adopt a more stringent opacity level, no
25 authority shall adopt or enforce an opacity level((+)

26 ~~(a) Lower than forty percent until July 1, 1990; and~~

1 ~~(b))~~ lower than twenty percent after July 1, 1990, or lower than
2 ten percent after July 1, 1995.

3 NEW SECTION. Sec. 503. A new section is added to chapter 70.94
4 RCW to read as follows:

5 After January 1, 1992, no used solid fuel burning device shall be
6 offered for sale or sold except for scrap unless such device is either
7 Oregon department of environmental quality phase II or United States
8 environmental protection agency certified or a pellet stove either
9 certified or exempt from certification by the United States
10 environmental protection agency.

11 **Sec. 504.** RCW 70.94.473 and 1990 c 128 s 2 are each amended to
12 read as follows:

13 (1) Any person in a residence or commercial establishment which has
14 an adequate source of heat without burning wood shall:

15 (a) Not burn wood in any solid fuel burning device whenever the
16 department has determined under RCW 70.94.715 that any air pollution
17 episode exists in that area;

18 (b) Not burn wood in any solid fuel burning device except those
19 which ~~((meet the standards set forth in RCW 70.94.457,))~~ are either
20 Oregon department of environmental quality phase II or United States
21 environmental protection agency certified or a pellet stove either
22 certified or issued an exemption certificate by the United States
23 environmental protection agency in accordance with Title 40, Part 60 of
24 the code of federal regulations, in the geographical area and for the
25 period of time that a first stage of impaired air quality has been
26 determined, by the department or any authority, for that area. A first

1 stage of impaired air quality is reached when particulates ten microns
2 and smaller in diameter are at an ambient level of seventy-five
3 micrograms per cubic meter measured on a twenty-four hour average or
4 when carbon monoxide is at an ambient level of eight parts of
5 contaminant per million parts of air by volume measured on an eight-
6 hour average; and

7 (c) Not burn wood in any solid fuel burning device, including those
8 which meet the standards set forth in RCW 70.94.457, in a geographical
9 area and for the period of time that a second stage of impaired air
10 quality has been determined by the department or any authority, for
11 that area. A second stage of impaired air quality is reached when
12 particulates ten microns and smaller in diameter are at an ambient
13 level of one hundred five micrograms per cubic meter measured on a
14 twenty-four hour average.

15 (2) (~~When~~) If a local air authority exercises the limitation on
16 solid fuel burning devices specified under RCW 70.94.477(2), a single
17 stage of impaired air quality applies in the geographical area defined
18 by the authority in accordance with RCW 70.94.477(2) and is reached
19 when particulates ten microns and smaller in diameter are at an ambient
20 level of ninety micrograms per cubic meter measured on a twenty-four
21 hour average or when carbon monoxide is at an ambient level of eight
22 parts of contaminant per million parts of air by volume measured on an
23 eight-hour average.

24 (~~When~~) If this single stage of impaired air quality is reached,
25 no person in a residence or commercial establishment (~~which~~) that has
26 an adequate source of heat without burning wood shall burn wood in any
27 solid fuel burning device, including those which meet the standards set
28 forth in RCW 70.94.457.

1 **Sec. 505.** RCW 70.94.483 and 1990 c 128 s 5 are each amended to
2 read as follows:

3 (1) The wood stove education and enforcement account is hereby
4 created in the general fund. Money placed in the account shall include
5 all money received under subsection (2) of this section and any other
6 money appropriated by the legislature. Money in the account shall be
7 spent for the purposes of the wood stove education program established
8 under RCW 70.94.480 and for enforcement of the wood stove program, and
9 shall be subject to legislative appropriation.

10 (2) The department of ecology, with the advice of the advisory
11 committee, shall set a flat fee(~~(, not to exceed fifteen)~~) of thirty
12 dollars, on the retail sale, as defined in RCW 82.04.050, of each solid
13 fuel burning device, excepting masonry fireplaces, after January 1,
14 (~~(1988)~~) 1992. The fee shall be imposed upon the consumer and shall
15 not be subject to the retail sales tax provisions of chapters 82.08 and
16 82.12 RCW. The fee may be adjusted annually above (~~(fifteen)~~) thirty
17 dollars (~~(according to changes in the consumer price index after~~
18 January 1, 1989)) to account for inflation as determined by the state
19 office of the economic and revenue forecast council. The fee shall be
20 collected by the department of revenue in conjunction with the retail
21 sales tax under chapter 82.08 RCW. If the seller fails to collect the
22 fee herein imposed or fails to remit the fee to the department of
23 revenue in the manner prescribed in chapter 82.08 RCW, the seller shall
24 be personally liable to the state for the amount of the fee. The
25 collection provisions of chapter 82.32 RCW shall apply. The department
26 of revenue shall deposit fees collected under this section in the wood
27 stove education and enforcement account.

1 NEW SECTION. **Sec. 602.** A new section is added to chapter 70.94
2 RCW to read as follows:

3 (1) Regulated refrigerant means a class I substance as listed in
4 Title VI of section 602 of the federal clean air act amendments of
5 November 15, 1990.

6 (2) A person who services or repairs or disposes of a motor vehicle
7 air conditioning system; commercial or industrial air conditioning,
8 heating, or refrigeration system; or consumer appliance shall use
9 refrigerant extraction equipment to recover regulated refrigerant that
10 would otherwise be released into the atmosphere. This subsection does
11 not apply to off-road commercial equipment.

12 (3) The willful release of regulated refrigerant from a source
13 listed in subsection (2) of this section is prohibited.

14 NEW SECTION. **Sec. 603.** A new section is added to chapter 70.94
15 RCW to read as follows:

16 No person may sell, offer for sale, or purchase any of the
17 following:

18 (1) A regulated refrigerant in a container designed for consumer
19 recharge of a motor vehicle air conditioning system or consumer
20 appliance during repair or service. This subsection does not apply to
21 a regulated refrigerant purchased for the recharge of the air
22 conditioning system of off-road commercial equipment and sold or
23 offered for sale at an establishment which specializes in the sale of
24 off-road commercial equipment or parts or service for such equipment;

25 (2) A cleaning spray designed for noncommercial or nonindustrial
26 cleaning of electronic or photographic equipment that contains
27 chlorofluorocarbons or other ozone-depleting chemicals; and

28 (3) Nonessential consumer products that contain chlorofluorocarbons
29 or other ozone-depleting chemicals, and for which substitutes are

1 readily available. Products affected under this subsection shall
2 include, but are not limited to, party streamers, tire inflators, air
3 horns, and noise makers.

4 NEW SECTION. **Sec. 604.** A new section is added to chapter 70.94
5 RCW to read as follows:

6 The department shall adopt rules to implement sections 602 and 603
7 of this act. Rules shall include but not be limited to minimum
8 performance specifications for refrigerant extraction equipment, as
9 well as procedures for enforcing sections 602 and 603 of this act.

10 VII.

11 MISCELLANEOUS SECTIONS

12 **Sec. 701.** RCW 70.94.053 and 1987 c 505 s 60 and 1987 c 109 s 34
13 are each reenacted and amended to read as follows:

14 (1) In each county of the state there is hereby created an air
15 pollution control authority, which shall bear the name of the county
16 within which it is located. The boundaries of each authority shall be
17 coextensive with the boundaries of the county within which it is
18 located. An authority shall include all incorporated and
19 unincorporated areas of the county within which it is located.

20 (2) All authorities which are presently (~~or may hereafter be~~
21 ~~within counties of the first class, class A or class AA, are hereby~~
22 ~~designated as~~) activated authorities ((and)) shall carry out the
23 duties and exercise the powers provided in this chapter. Those
24 activated authorities ((~~hereby activated~~)) which encompass contiguous

1 counties (~~located in one or the other of the two major areas~~
2 ~~determined in RCW 70.94.011~~) are declared to be and directed to
3 function as a multicounty authority.

4 (3) Except as provided in RCW 70.94.232, all other air pollution
5 control authorities are hereby designated as inactive authorities.

6 (4) The boards of those authorities designated as activated
7 authorities by this chapter shall be comprised of such appointees
8 and/or county commissioners or other officers as is provided in RCW
9 70.94.100. (~~The first meeting of the boards of those authorities~~
10 ~~designated as activated authorities by this chapter shall be on or~~
11 ~~before sixty days after June 8, 1967.~~

12 (5) ~~The department is directed to conduct the necessary evaluations~~
13 ~~and delineate appropriate air pollution regions throughout the state,~~
14 ~~taking into consideration:~~

15 (a) ~~The natural climatic and topographic features affecting the~~
16 ~~potential for buildup of air contaminant concentrations.~~

17 (b) ~~The degree of urbanization and industrialization and the~~
18 ~~existence of activities which are likely to cause air pollution.~~

19 (c) ~~The county boundaries as related to the air pollution regions~~
20 ~~and the practicality of administering air pollution control programs.)~~

21 **Sec. 702.** RCW 70.94.055 and 1967 c 238 s 5 are each amended to
22 read as follows:

23 The board of county commissioners of any county (~~other than a~~
24 ~~first class, class A or class AA county~~) may activate an air pollution
25 control authority following a public hearing on its own motion, or upon
26 a filing of a petition signed by one hundred property owners within the

1 county. If the board of county commissioners determines as a result of
2 the public hearing that:

3 (1) Air pollution exists or is likely to occur; and

4 (2) The city or town ordinances, or county resolutions, or their
5 enforcement, are inadequate to prevent or control air pollution, they
6 (~~shall~~) may by resolution activate an air pollution control authority
7 or combine with a contiguous county or counties to form a multicounty
8 air pollution control authority.

9 **Sec. 703.** RCW 70.94.092 and 1975 1st ex.s. c 106 s 1 are each
10 amended to read as follows:

11 Notwithstanding the provisions of RCW 1.16.030, the budget year of
12 each activated authority shall be the fiscal year beginning July 1st
13 and ending on the following June 30th. (~~The current budget year shall
14 be terminated June 30, 1975, and a budget for the fiscal year beginning
15 July 1, 1975, shall be adopted pursuant to this section as now or
16 hereafter amended.~~) On or before the fourth Monday in June of each
17 year, each activated authority shall adopt a budget for the following
18 fiscal year. The activated authority budget shall contain adequate
19 funding and provide for staff sufficient to carry out the provisions of
20 all applicable ordinances, resolutions, and local regulations related
21 to the reduction, prevention, and control of air pollution. The
22 legislature acknowledges the need for the state to provide reasonable
23 funding to local authorities to carry out the requirements of this
24 chapter. The budget shall contain an estimate of all revenues to be
25 collected during the following budget year, including any surplus funds
26 remaining unexpended from the preceding year. The remaining funds
27 required to meet budget expenditures, if any, shall be designated as

1 "supplemental income" and shall be obtained from the component cities,
2 towns, and counties in the manner provided in this chapter. The
3 affirmative vote of three-fourths of all members of the board shall be
4 required to authorize emergency expenditures.

5 **Sec. 704.** RCW 70.94.100 and 1989 c 150 s 1 are each amended to
6 read as follows:

7 (1) The governing body of each authority shall be known as the
8 board of directors.

9 (2) In the case of an authority comprised of one county the board
10 shall be comprised of two appointees of the city selection committee
11 ~~((as hereinafter provided))~~, at least one of whom shall represent the
12 city having the most population in the county, and two representatives
13 to be designated by the board of county commissioners. In the case of
14 an authority comprised of two ~~((or))~~, three, four, or five counties,
15 the board shall be comprised of one appointee ~~((of the city selection
16 committee of))~~ from each county ~~((as hereinafter provided))~~, who shall
17 represent the city having the most population in such county, to be
18 designated by the mayor and city council of such city, and one
19 representative from each county to be designated by the board of county
20 commissioners of each county making up the authority. ~~((In the case of
21 an authority comprised of four or five counties, the board shall be
22 comprised of one appointee of the city selection committee of each
23 county as hereinafter provided who shall represent the city having the
24 most population in such county, and one representative from each county
25 to be designated by the board of county commissioners of each county
26 making up the authority.))~~ In the case of an authority comprised of
27 six or more counties, the board shall be comprised of one

1 representative from each county to be designated by the board of county
2 commissioners of each county making up the authority, and ~~((one))~~ three
3 appointees, one each from ~~((each city with over one hundred thousand~~
4 ~~population))~~ the three largest cities within the local authority's
5 jurisdiction to be appointed by the mayor and city council of such
6 city.

7 (3) If the board of an authority otherwise would consist of an even
8 number, the members selected as above provided shall agree upon and
9 elect an additional member who shall be either a member of the
10 governing body of one of the towns, cities or counties comprising the
11 authority, or a private citizen residing in the authority. ~~((All board~~
12 ~~members shall hold office at the pleasure of the appointing body.))~~

13 (4) The terms of office of board members shall be four years.

14 (5) Wherever a member of a board has a potential conflict of
15 interest in an action before the board, the member shall declare to the
16 board the nature of the potential conflict prior to participating in
17 the action review. The board shall, if the potential conflict of
18 interest, in the judgment of a majority of the board, may prevent the
19 member from a fair and objective review of the case, remove the member
20 from participation in the action.

21 **Sec. 705.** RCW 70.94.130 and 1969 ex.s. c 168 s 15 are each amended
22 to read as follows:

23 The board shall exercise all powers of the authority except as
24 otherwise provided. The board shall conduct its first meeting within
25 thirty days after all of its members have been appointed or designated
26 as provided in RCW 70.94.100. The board shall meet at least ten times
27 per year. All meetings shall be publicly announced prior to their

1 occurrence. All meetings shall be open to the public. A majority of
2 the board shall constitute a quorum for the transaction of business and
3 shall be necessary for any action taken by the board. The board shall
4 elect from its members a (~~chairman~~) chair and such other officers as
5 may be necessary. Any member of the board may designate a regular
6 alternate to serve on the board in his or her place with the same
7 authority as the member when he or she is unable to attend. Each
8 member of the board, or his or her representative, shall receive from
9 the authority (~~twenty-five dollars per day~~) compensation consistent
10 with such authority's rates (but not to exceed one thousand dollars per
11 year) for (~~each full day~~) time spent in the performance of (~~his~~)
12 duties under this chapter, plus the actual and necessary expenses
13 incurred by (~~him~~) the member in such performance. The board may
14 appoint (~~an executive director~~) a control officer, and any other
15 personnel, and shall determine their salaries, and pay same, together
16 with any other proper indebtedness, from authority funds.

17 **Sec. 706.** RCW 70.94.170 and 1969 ex.s. c 168 s 21 are each amended
18 to read as follows:

19 Any activated authority which has adopted an ordinance, resolution,
20 or valid rules and regulations as provided herein for the control and
21 prevention of air pollution shall appoint a full time control officer,
22 (~~who~~) whose sole responsibility shall be to observe and enforce the
23 provisions of this chapter and all orders, ordinances, resolutions, or
24 rules and regulations of such activated authority pertaining to the
25 control and prevention of air pollution.

1 **Sec. 707.** RCW 70.94.231 and 1969 ex.s. c 168 s 29 are each amended
2 to read as follows:

3 Upon the date that an authority begins to exercise its powers and
4 functions, all ~~((districts formed as a district under chapter 70.94 RCW~~
5 ~~prior to June 8, 1967 which previously were wholly or partially~~
6 ~~composed of one or more cities or towns located within such activated~~
7 ~~authority shall be considered to be dissolved but its))~~ rules and
8 regulations in force on such date shall remain in effect until
9 superseded by the rules and regulations of the authority as provided in
10 RCW 70.94.230. ~~((In such event, the board of any such district shall~~
11 ~~proceed to wind up the affairs of the district in the same manner as if~~
12 ~~the district were dissolved as provided in RCW 70.94.260.))~~

13 **Sec. 708.** RCW 70.94.240 and 1969 ex.s. c 168 s 30 are each amended
14 to read as follows:

15 The board of any authority ~~((shall))~~ may appoint an air pollution
16 control advisory council to advise and consult with such board, and the
17 control officer in effectuating the purposes of this chapter. The
18 council shall consist of at least five appointed members who are
19 residents of the authority and who are preferably skilled and
20 experienced in the field of air pollution control, ~~((two))~~ chemistry,
21 meteorology, public health, or a related field, at least one of whom
22 shall serve as a representative~~((s))~~ of industry and one of whom shall
23 serve as a representative of the environmental community. The
24 ~~((chairman))~~ chair of the board of any such authority shall serve as ex
25 officio member of the council and be its ~~((chairman))~~ chair. Each

1 member of the council shall receive from the authority per diem and
2 travel expenses in an amount not to exceed that provided for the state
3 board in this chapter (but not to exceed one thousand dollars per year)
4 for each full day spent in the performance of his or her duties under
5 this chapter.

6 **Sec. 709.** RCW 70.94.331 and 1988 c 106 s 1 are each amended to
7 read as follows:

8 (1) The department shall have all the powers as provided in RCW
9 70.94.141.

10 (2) The department, in addition to any other powers vested in it by
11 law after consideration at a public hearing held in accordance with
12 chapters 42.30 ((RCW)) and ((chapter)) 34.05 RCW shall:

13 (a) Adopt rules ((and regulations)) establishing air quality
14 objectives and air quality standards;

15 (b) Adopt emission standards which shall constitute minimum
16 emission standards throughout the state. An authority may enact more
17 stringent emission standards, except for emission performance standards
18 for new wood stoves and opacity levels for residential solid fuel
19 burning devices which shall be state-wide, but in no event may less
20 stringent standards be enacted by an authority without the prior
21 approval of the department after public hearing and due notice to
22 interested parties;

23 (c) Adopt by rule ((and regulation)) air quality standards and
24 emission standards for the control or prohibition of emissions to the
25 outdoor atmosphere of radionuclides, dust, fumes, mist, smoke, other
26 particulate matter, vapor, gas, odorous substances, or any combination
27 thereof. Such requirements may be based upon a system of

1 classification by types of emissions or types of sources of emissions,
2 or combinations thereof, which it determines most feasible for the
3 purposes of this chapter. However, an industry, or the air pollution
4 control authority having jurisdiction, can choose, subject to the
5 submittal of appropriate data that the industry has quantified, to have
6 any limit on the opacity of emissions from a source whose emission
7 standard is stated in terms of a weight of particulate per unit volume
8 of air (e.g., grains per dry standard cubic foot) be based on the
9 applicable particulate emission standard for that source, such that any
10 violation of the opacity limit accurately indicates a violation of the
11 applicable particulate emission standard. A reasonable fee may be
12 assessed to the industry to which the alternate opacity standard would
13 apply. The fee shall cover only those costs to the air pollution
14 control authority which are directly related to the determination on
15 the acceptability of the alternate opacity standard, including testing,
16 oversight and review of data.

17 (3) The air quality standards and emission standards may be for the
18 state as a whole or may vary from area to area or source to source,
19 except that emission performance standards for new wood stoves and
20 opacity levels for residential solid fuel burning devices shall be
21 state-wide, as may be appropriate to facilitate the accomplishment of
22 the objectives of this chapter and to take necessary or desirable
23 account of varying local conditions of population concentration, the
24 existence of actual or ((reasonable)) reasonably foreseeable air
25 pollution, topographic and meteorologic conditions and other pertinent
26 variables.

27 (4) The department is directed to cooperate with the appropriate
28 agencies of the United States or other states or any interstate
29 agencies or international agencies with respect to the control of air
30 pollution and air contamination, or for the formulation for the

1 submission to the legislature of interstate air pollution control
2 compacts or agreements.

3 (5) The department is directed to conduct or cause to be conducted
4 a continuous surveillance program to monitor the quality of the ambient
5 atmosphere as to concentrations and movements of air contaminants and
6 conduct or cause to be conducted a program to determine the quantity of
7 emissions to the atmosphere.

8 (6) The department shall enforce the air quality standards and
9 emission standards throughout the state except where a local authority
10 is enforcing the state regulations or its own regulations which are
11 more stringent than those of the state.

12 (7) The department shall encourage local units of government to
13 handle air pollution problems within their respective jurisdictions;
14 and, on a cooperative basis provide technical and consultative
15 assistance therefor.

16 (8) The department shall have the power to require the addition to
17 or deletion of a county or counties from an existing authority in order
18 to carry out the purposes of this chapter(~~(:—PROVIDED, HOWEVER,~~
19 ~~That))~~). No such addition or deletion shall be made without the
20 concurrence of any existing authority involved. Such action shall only
21 be taken after a public hearing held pursuant to the provisions of
22 chapter 34.05 RCW.

23 **Sec. 710.** RCW 70.94.332 and 1987 c 109 s 18 are each amended to
24 read as follows:

25 Whenever the department of ecology has reason to believe that any
26 provision of this chapter or any rule or regulation adopted by it or
27 being enforced by it under RCW 70.94.410 relating to the control or

1 prevention of air pollution has been violated, it may cause written
2 notice to be served upon the alleged violator or violators. The notice
3 shall specify the provision of this chapter or the rule or regulation
4 alleged to be violated, and the facts alleged to constitute a violation
5 thereof, and may include an order that necessary corrective action be
6 taken within a reasonable time. In lieu of an order, the department
7 may require that the alleged violator or violators appear before it for
8 the purpose of providing the department information pertaining to the
9 violation or the charges complained of. In addition to or in place of
10 an order or hearing, the department may initiate action pursuant to RCW
11 70.94.425, 70.94.430, 70.94.431, and 70.94.435.

12 **Sec. 711.** RCW 70.94.385 and 1987 c 109 s 41 are each amended to
13 read as follows:

14 (1) Any authority may apply to the department for state financial
15 aid. The department shall ~~((by rule and regulation))~~ annually
16 establish the ~~((ratio))~~ amount of state funds ~~((to))~~ available for the
17 local ~~((funds))~~ authorities taking into consideration available federal
18 and state funds. The establishment of funding amounts shall be
19 consistent with federal requirements and local maintenance of effort
20 necessary to carry out the provisions of this chapter. Any such aid
21 shall be expended from the general fund or from ~~((such))~~ other
22 appropriations as the legislature may provide for this purpose:
23 PROVIDED, That federal funds shall be utilized to the maximum unless
24 otherwise approved by the department: PROVIDED FURTHER, That the
25 ~~((ratio))~~ amount of state funds provided to local ~~((funds—of))~~
26 authorities during the previous year shall not be ~~((changed))~~ reduced
27 without a public notice or hearing if requested by the affected local

1 authority, held by the department unless such changes are the direct
2 result of federal regulation.

3 (2) Before any such application is approved and financial aid is
4 given or approved by the department, the authority shall demonstrate to
5 the satisfaction of the department that it is fulfilling the
6 requirements of (~~RCW 70.94.380, or,~~) this chapter. If the department
7 has not adopted ambient air quality standards and objectives as
8 permitted by RCW 70.94.331, the authority shall demonstrate to the
9 satisfaction of the department that it is acting in good faith and
10 doing all that is possible and reasonable to control and prevent air
11 pollution within its jurisdictional boundaries and to carry out the
12 purposes of this chapter.

13 (3) The department shall adopt rules (~~and regulations~~) requiring
14 the submission of such information by each authority including the
15 submission of its proposed budget and a description of its program in
16 support of the application for state financial aid as necessary to
17 enable the department to determine the need for state aid.

18 **Sec. 712.** RCW 70.94.395 and 1987 c 109 s 43 are each amended to
19 read as follows:

20 If the department finds, after public hearing upon due notice to
21 all interested parties, that the emissions from a particular type or
22 class of air contaminant source should be regulated on a state-wide
23 basis in the public interest and for the protection of the welfare of
24 the citizens of the state, it may adopt and enforce rules (~~and~~
25 ~~regulations~~) to control and/or prevent the emission of air
26 contaminants from such source(~~(:—PROVIDED, That)~~). An authority may,
27 after public hearing and a finding by the board of a need for more

1 stringent rules ~~((and regulations))~~ than those adopted by the
2 department under this section, propose the adoption of such rules ~~((and
3 regulations))~~ by the department for the control of emissions from the
4 particular type or class ~~((or))~~ of air contaminant source within the
5 geographical area of the authority. The department shall hold a public
6 hearing and shall adopt the proposed rules ~~((and regulations))~~ within
7 the area of the requesting authority, unless it finds that the proposed
8 rules ~~((and regulations))~~ are inconsistent with the rules ~~((and
9 regulations))~~ adopted by the department under this section~~((+
10 PROVIDED, FURTHER, That))~~. When such standards are adopted by the
11 department it ~~((shall))~~ may delegate to the authority all powers
12 necessary for their enforcement at the request of the authority~~((+
13 PROVIDED, That))~~. The department may delegate the responsibility for
14 the enforcement of ~~((such))~~ rules ~~((and regulations))~~ adopted under
15 this section to any authority which it deems capable of enforcing such
16 ~~((regulations:— PROVIDED FURTHER, That))~~ rules. If after public
17 hearing the department finds that the regulation on a state-wide basis
18 of a particular type ~~((of))~~ or class of air contaminant source is no
19 longer required for the public interest and the protection of the
20 welfare of the citizens of the state, the department may relinquish
21 exclusive jurisdiction over such source.

22 **Sec. 713.** RCW 70.94.405 and 1987 c 109 s 45 are each amended to
23 read as follows:

24 At any time after an authority has been activated for no less than
25 one year, the department may, on its own motion, conduct a hearing held
26 in accordance with chapters 42.30 ~~((RCW))~~ and ~~((chapter))~~ 34.05 RCW,
27 ~~((as now or hereafter amended))~~ to determine whether or not the air

1 pollution prevention and control program of such authority is being
2 carried out in good faith and is as effective as possible (~~under the~~
3 ~~circumstances~~). If at such hearing the department finds that such
4 authority is not carrying out its air pollution control or prevention
5 program in good faith, (~~or~~) is not doing all that is possible and
6 reasonable to control and/or prevent air pollution within the
7 geographical area over which it has jurisdiction, or is not carrying
8 out the provisions of this chapter, it shall set forth in a report or
9 order to the appropriate authority: (1) Its recommendations as to how
10 air pollution prevention and/or control might be more effectively
11 accomplished; and (2) guidelines which will assist the authority in
12 carrying out the recommendations of the department.

13 **Sec. 714.** RCW 70.94.410 and 1987 c 109 s 46 are each amended to
14 read as follows:

15 (1) If, after thirty days from the time that the department issues
16 a report or order to an authority under RCW 70.94.400 and 70.94.405,
17 such authority has not taken (~~any~~) action which indicates that it is
18 attempting in good faith to implement the recommendations or actions of
19 the department as set forth in the report or order, the department may,
20 by order, declare as null and void any or all ordinances, resolutions,
21 rules or regulations of such authority relating to the control and/or
22 prevention of air pollution, and at such time the department shall
23 become the sole body with authority to make and enforce rules and
24 regulations for the control and/or prevention of air pollution within
25 the geographical area of such authority. In this connection the
26 department may assume all those powers which are given to it by law to
27 effectuate the purposes of this chapter. The department may, by order,

1 continue in effect and enforce (~~these~~) provisions of the ordinances,
2 resolutions, or rules (~~and regulations~~) of such authority which are
3 not less stringent than those requirements which the department may
4 have found applicable to the area under RCW 70.94.331, until such time
5 as the department adopts its own rules (~~and regulations~~). Any rules
6 (~~and regulations~~) promulgated by the department shall be subject to
7 the provisions of chapter 34.05 RCW (~~as it now appears or may~~
8 ~~hereinafter be amended~~). Any enforcement actions shall be subject to
9 RCW 43.21B.300 or 43.21B.310.

10 (2) No provision of this chapter is intended to prohibit any
11 authority from reestablishing its air pollution control program which
12 meets with the approval of the department and which complies with the
13 purposes of this chapter and with applicable rules (~~and regulations~~)
14 and orders of the department.

15 (3) Nothing in this chapter shall prevent the department from
16 withdrawing the exercise of its jurisdiction over an authority upon its
17 own motion(~~∴ PROVIDED, That~~) if the department has found at a
18 hearing held in accordance with chapters 42.30 ((RCW)) and ((chapter))
19 34.05 RCW (~~as now or hereafter amended~~), that the air pollution
20 prevention and control program of such authority will be carried out in
21 good faith ((~~or~~)), that such program will do all that is possible and
22 reasonable to control and/or prevent air pollution within the
23 geographical area over which it has jurisdiction, and that the program
24 complies with the provisions of this chapter. Upon the withdrawal of
25 the department, the department shall prescribe certain recommendations
26 as to how air pollution prevention and/or control is to be effectively
27 accomplished and guidelines which will assist the authority in carrying
28 out the recommendations of the department.

1 **Sec. 715.** RCW 70.94.420 and 1987 c 109 s 47 are each amended to
2 read as follows:

3 ~~((1))~~ It is declared to be the intent of the legislature of the
4 state of Washington that any state department or agency having
5 jurisdiction over any building, installation, ~~((or))~~ other property, or
6 other activity creating or likely to create significant air pollution
7 shall cooperate with the department and with air pollution control
8 agencies in preventing and/or controlling the pollution of the air in
9 any area insofar as the discharge of ~~((the matter))~~ air contaminants
10 from or by such building, installation, ~~((or))~~ other property, or
11 activity may cause or contribute to pollution of the air in such area.
12 Such state department or agency shall comply with the provisions of
13 this chapter and with any ordinance, resolution, rule or regulation
14 issued hereunder in the same manner as any other person subject to such
15 laws~~((,))~~ or rules ~~((or regulations))~~.

16 ~~((2))~~ ~~In addition to its other powers and duties prescribed by law,~~
17 ~~the department may establish classes of potential pollution sources for~~
18 ~~which any state department or agency having jurisdiction over any~~
19 ~~building, installation, or other property, which is not located within~~
20 ~~the geographical boundaries of any authority which has an air pollution~~
21 ~~control and/or prevention program in effect, shall, before discharging~~
22 ~~any matter into the air, obtain a permit from the department for such~~
23 ~~discharge, such permits to be issued for a specified period of time to~~
24 ~~be determined by the department and subject to revocation if the~~
25 ~~department finds that such discharge is endangering the health and~~
26 ~~welfare of any persons. Such permits may also be required for any such~~
27 ~~building, installation, or other property which is located within the~~
28 ~~geographical boundaries of any authority which has an air pollution~~

1 ~~control and prevention program in effect if the standards set by the~~
2 ~~department for state departments and agencies are more stringent than~~
3 ~~those of the authority. In connection with the issuance of any permits~~
4 ~~under this section, there shall be submitted to the department such~~
5 ~~plans, specifications, and other information as it deems relevant~~
6 ~~thereto and under such other conditions as it may prescribe.))~~

7 **Sec. 716.** RCW 70.146.080 and 1986 c 3 s 11 are each amended to
8 read as follows:

9 Within thirty days after June 30, 1987, and within thirty days
10 after each succeeding fiscal year thereafter, the ~~((state treasurer))~~
11 office of financial management shall determine the tax receipts
12 deposited into the water quality account for the preceding fiscal year.
13 If the tax receipts deposited into the account in each of the fiscal
14 years 1988 and 1989 are less than forty million dollars, the state
15 treasurer shall transfer sufficient moneys from general state revenues
16 into the water quality account to bring the total receipts in each
17 fiscal year up to forty million dollars.

18 After June 30, 1989, if the tax receipts deposited into the water
19 quality account for the preceding fiscal year are less than forty-five
20 million dollars, the state treasurer shall transfer sufficient moneys
21 from general state revenues into the water quality account to bring the
22 total receipts up to forty-five million dollars.

23 Beginning in fiscal year 1992, if the tax receipts deposited into
24 the water quality account for the preceding fiscal year are less than
25 forty-five million dollars, the state treasurer shall transfer
26 sufficient moneys from the air pollution control account, created in
27 section 227 of this act to bring the total receipts up to forty-five

1 million dollars. One-fourth of the required amount shall be
2 transferred at the end of each fiscal quarter based on the tax receipts
3 as determined by July 30 for the preceding fiscal year.

4 NEW SECTION. Sec. 717. A new section is added to chapter 70.94
5 RCW to read as follows:

6 All fees and penalties assessed under this chapter except as
7 otherwise provided shall be collected by the department of revenue, and
8 deposited in the air pollution control account, created in section 227
9 of this act. Money in the account deposited pursuant to this section
10 shall be expended by the department of ecology for the purposes of this
11 chapter, subject to legislative appropriation.

12 The amounts collected and allocated in accordance with this section
13 shall be expended upon appropriation and in accordance with the
14 following:

15 Portions of moneys received by the department from the air
16 pollution control account shall be distributed by the department to
17 local air authorities based on the amount of fees collected from
18 sources within the jurisdictional boundaries of such authority and on
19 the level and extent of the air quality problem within such boundaries.

20 NEW SECTION. Sec. 718. Section 602 of this act shall take
21 effect on July 1, 1992. Section 604 of this act shall take effect on
22 January 1, 1992.

23 The remainder of this act is necessary for the immediate
24 preservation of the public peace, health, or safety, or support of the
25 state government and its existing public institutions, and shall take
26 effect immediately, except for sections 221 through 228 of this act
27 which shall take effect July 1, 1991.

1 NEW SECTION. **Sec. 719.** The following acts or parts of acts are
2 each repealed:

3 (1) RCW 70.120.110 and 1989 c 240 s 7, 1985 c 7 s 131, & 1979 ex.s.
4 c 163 s 12;

5 (2) RCW 70.120.140 and 1 c 505 s 62 & 1980 c 176 s 5;

6 (3) RCW 70.120.900 and 1989 c 240 s 9;

7 (4) RCW 70.94.232 and 1983 c 3 s 177 & 1967 c 238 s 40;

8 (5) RCW 70.94.656 and 1990 c 113 s 1, 1985 c 57 s 69, & 1973 1st
9 ex.s. c 193 s 7;

10 (6) RCW 70.94.680 and 1971 ex.s. c 232 s 4;

11 (7) RCW 70.94.740 and 1972 ex.s. c 136 s 1;

12 (8) RCW 70.94.810 and 1984 c 277 s 3;

13 (9) RCW 70.94.815 and 1984 c 277 s 5;

14 (10) RCW 70.94.825 and 1984 c 277 s 7; and

15 (11) RCW 70.94.870 and 1984 c 164 s 3.

16 NEW SECTION. **Sec. 720.** If any provision of this act or its
17 application to any person or circumstance is held invalid, the
18 remainder of the act or the application of the provision to other
19 persons or circumstances is not affected.