
HOUSE BILL 1186

State of Washington

61st Legislature

2009 Regular Session

By Representative Chase

Read first time 01/14/09. Referred to Committee on Ecology & Parks.

1 AN ACT Relating to small-scale powered equipment; adding a new
2 chapter to Title 70 RCW; adding a new chapter to Title 82 RCW; creating
3 a new section; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** The definitions in this section apply
6 throughout this chapter unless the context clearly requires otherwise.

7 (1) "Consumer benefits" means a property of an item that is
8 advantageous to the consumer of the item. The term "consumer benefits"
9 includes, but is not limited to, reduced long-term costs of ownership,
10 enhanced safety, and benefits to the overall environment.

11 (2) "Department" means the department of ecology.

12 (3) "Shelf space" means the area of a retail store that is made
13 available to a potential customer and designed to display the items
14 offered for sale at the store. The term "shelf space" includes not
15 only items displayed on shelves, but also items displayed on the floor
16 of the store or in other areas on the store's premises.

17 (4) "Small-scale powered equipment" means a tool or other nonroad
18 or marine machine powered by a gasoline, diesel, or propane spark
19 ignition engine that has a standard manufacturer's listed horsepower

1 rating of fifty horsepower or fewer. Examples of the term "small-scale
2 powered equipment" include, but are not limited to, the following items
3 when the components of the definition are satisfied: Lawnmowers,
4 string trimmers, leaf blowers, air compressors, chainsaws, turf
5 equipment, lawn and garden tractors, and vehicles designed for off-road
6 use.

7 (5) "State agency" means any office, department, division, bureau,
8 board, commission, or other agency of the state of Washington.

9 NEW SECTION. **Sec. 2.** (1) Any retailer that offers for sale an
10 item that satisfies the definition of small-scale powered equipment
11 must provide equal or greater shelf space to similar products that are
12 powered by an electrical cord or a rechargeable battery.

13 (2) In calculating equal or greater shelf space, electric versions
14 of individual equipment categories must be considered discreetly from
15 their small-scale powered equipment counterparts. Total aggregate
16 shelf space for small-scale powered equipment is not to be compared
17 with the total aggregate shelf space for similar products that are
18 powered by an electrical cord or a rechargeable battery.

19 (3)(a) This section does not apply to small-scale powered equipment
20 when there is not a similar product category available on the market
21 that is powered by an electrical cord or a rechargeable battery.

22 (b) If a retailer is unsure whether a similar product that is
23 powered by an electrical cord or a rechargeable battery exists for a
24 particular category of small-scale powered equipment, the retailer may
25 petition the department for a statement of exemption from this section
26 for the small-scale powered equipment in question.

27 NEW SECTION. **Sec. 3.** (1) Any retailer that offers for sale an
28 item that satisfies the definition of small-scale powered equipment
29 must dedicate a portion of its shelf space to adequate signs describing
30 the consumer benefits of choosing electric or battery-powered engines
31 over small-scale powered equipment. Retailers can either purchase
32 signs from the department or produce their own signs consistent with
33 the standards developed by the department under this section.

34 (2)(a) The department shall identify potential consumer benefits of
35 choosing electric or battery-powered engines over small-scale powered
36 equipment.

1 (b) The department shall:

2 (i) Incorporate the identified consumer benefits into a sign
3 template appropriate for display in a retail store that satisfies the
4 requirements of this section;

5 (ii) Produce copies of the signs made from the template that are to
6 be offered for sale to retailers; and

7 (iii) Develop minimum sign standards to guide retailers choosing to
8 produce their own signs in order to satisfy the requirements of this
9 section.

10 (c) Signs sold to a retailer by the department under this section
11 must be priced no higher than necessary to reimburse the department's
12 development and production costs. All proceeds from sign sales must be
13 deposited into the electrical equipment incentive account created in
14 section 7 of this act.

15 (3)(a) This section does not apply to small-scale powered equipment
16 when there is not a similar product category available on the market
17 that is powered by an electrical cord or a rechargeable battery.

18 (b) If a retailer is unsure whether a similar product that is
19 powered by an electrical cord or a rechargeable battery exists for a
20 particular category of small-scale powered equipment, the retailer may
21 petition the department for a statement of exemption from this section
22 for the small-scale powered equipment in question.

23 NEW SECTION. **Sec. 4.** (1) The department shall offer electrical
24 equipment incentive grants on a competitive basis to city or county
25 governments. Grant funding may only be used by the city or county
26 government for programs designed to subsidize, or otherwise create an
27 incentive for, the purchase of alternatives to small-scale powered
28 equipment that are powered by an electrical cord or a rechargeable
29 battery.

30 (2) Competitive criteria for grant awards must be designed by the
31 department. However, competitive priority must be given to local
32 governments located in areas with the highest measurable air quality
33 degradation due to emissions commonly associated with small-scale
34 powered equipment.

35 (3) The amount provided in each grant, as well as the number of
36 grants available, must be determined by the department based on funding

1 available from the electrical equipment incentive account created in
2 section 7 of this act.

3 NEW SECTION. **Sec. 5.** (1) Except as otherwise provided in this
4 section, state agencies are prohibited from purchasing small-scale
5 powered equipment if the market offers an alternative item that is
6 powered by an electrical cord or rechargeable battery.

7 (2) All state agencies shall phase out the use of small-scale
8 powered equipment that have alternative items available on the market
9 that are powered by an electrical cord or rechargeable battery on a
10 timeline that ensures that no such items are in use five years after
11 the effective date of this section.

12 (3)(a) The top administrative official of a state agency may waive
13 the provisions of this section on a case-by-case basis if the top
14 administrative official of the agency publishes a finding in the
15 Washington State Register explaining the details as to why the purchase
16 or use of the small-scale powered equipment was necessary and why the
17 use of an electric-based alternative would have been impractical.

18 (b) The Washington State Register publication requirements of this
19 section may be satisfied with one annual publication summarizing all
20 instances where the requirements of this section were waived by the top
21 administrative official in the preceding year.

22 NEW SECTION. **Sec. 6.** Local governments and school districts are
23 encouraged to review their purchasing and use of small-scale powered
24 equipment and select, when possible, alternative items that are powered
25 by an electrical cord or rechargeable battery.

26 NEW SECTION. **Sec. 7.** The electrical equipment incentive account
27 is created in the state treasury. All receipts from the small-scale
28 powered equipment carbon emissions fee created in section 9 of this
29 act, along with the sales of signs developed by the department under
30 section 3 of this act, must be deposited into the account. Moneys in
31 the account may be spent only after appropriation. Expenditures from
32 the account may be used only by the department for local government
33 electrical equipment incentive grants provided in section 4 of this
34 act, sign development and manufacturing costs incurred by conformance

1 with section 3 of this act, and general expenses incurred through the
2 implementation of this chapter.

3 NEW SECTION. **Sec. 8.** (1) A retailer operating in violation of
4 this chapter is subject to a class 1 civil infraction under chapter
5 7.80 RCW. Each calendar day of operation in violation of this section
6 comprises a new violation.

7 (2) This chapter may be enforced by the department, the applicable
8 air pollution control authority created under RCW 70.94.053, the
9 applicable city or county government, or a general authority Washington
10 law enforcement agency, as that term is defined in RCW 10.93.020.

11 NEW SECTION. **Sec. 9.** (1) In addition to any other fees, there is
12 levied and there shall be collected by the department from every person
13 for the privilege of engaging within this state in business as a
14 wholesaler or as a retailer a small-scale powered equipment carbon
15 emissions fee equal to the gross proceeds of sales of all small-scale
16 powered equipment, as that term is defined in section 1 of this act,
17 that are sold within this state multiplied by six percent.

18 (2) The frequency and time of collection of the small-scale powered
19 equipment carbon emissions fee shall coincide with the reporting
20 periods by payers of their business and occupation tax.

21 NEW SECTION. **Sec. 10.** Instead of requiring each business to
22 separately account for fee and nonfee products under this chapter, the
23 department may provide, by rule, that the fee imposed in this chapter
24 be reported and paid based on a percentage of total sales for a
25 particular type of business if the department determines that the
26 percentage reasonably approximates the activity subject to a fee of the
27 particular type of business.

28 NEW SECTION. **Sec. 11.** To the extent applicable, all of the
29 definitions of chapter 82.04 RCW and all of the provisions of chapter
30 82.32 RCW apply to the fee imposed in this chapter.

31 NEW SECTION. **Sec. 12.** Fees collected under this chapter must be
32 allocated as follows:

1 (1) Fifty percent must be deposited into the electrical equipment
2 incentive account created in section 7 of this act;

3 (2) Twenty-five percent must be deposited into the air pollution
4 control account created in RCW 70.94.015;

5 (3) Twenty percent must be deposited into the general fund; and

6 (4) Five percent must be maintained by the department for the
7 administration and enforcement of this chapter.

8 NEW SECTION. **Sec. 13.** As a demonstration to other state agencies
9 as to how the requirements of section 5 of this act may be achieved,
10 the department of general administration shall suspend the use of all
11 spark ignition lawnmowers, string trimmers, and weed blowers on the
12 capitol campus by October 1, 2009. The department of general
13 administration shall document its transition from small-scale powered
14 equipment to electrical or manual alternatives to aid other state
15 agencies in their implementation of section 5 of this act.

16 NEW SECTION. **Sec. 14.** Sections 1 through 8 of this act constitute
17 a new chapter in Title 70 RCW.

18 NEW SECTION. **Sec. 15.** Sections 9 through 12 of this act
19 constitute a new chapter in Title 82 RCW.

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