S-3436.1

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**SENATE BILL 6098**

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**State of Washington 65th Legislature 2018 Regular Session**

**By** Senators Ranker and Hunt

AN ACT Relating to reducing climate altering emissions from light duty vehicles; amending RCW 35.92.355, 43.19.648, 70.120A.010, 82.08.809, and 82.12.809; adding a new section to chapter 35.92 RCW; adding a new section to chapter 54.16 RCW; creating new sections; and declaring an emergency.

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

NEW SECTION. **Sec.**  The legislature finds that because the transportation sector is the source of more than forty percent of the state's greenhouse gas emissions, the state must accelerate the transition to vehicles that operate on fuels other than gasoline and diesel. Particularly in Washington, with its electrical system predominantly fueled by hydropower and other renewable energy sources, electric vehicles are associated with nearly zero-carbon emissions and a rapid uptake of such vehicles in the state's fleet of passenger cars and light duty trucks can make a dramatic contribution to reducing the state's emissions. In addition, electric vehicles do not emit hydrocarbon and other toxic and conventional pollutants that are associated with vehicles operating on gasoline and diesel fuel, and therefore have enormous advantages in reducing public health and environmental impacts, in addition to the climate mitigation benefits.

The legislature further finds that programs for electrification of transportation have the potential to allow electric utilities to optimize the use of electric grid infrastructure, improve the management of electric loads, and better manage the integration of variable renewable energy and energy storage resources. Depending upon each utility's unique circumstances, transportation electrification programs may provide cost-effective energy efficiency, more efficient use of energy resources, and more efficient use of electric distribution system resources and infrastructure. This energy efficiency may result in cost savings and benefits for all ratepayers.

The legislature finds that as with traditional energy conservation programs that provide financing for more efficient use of energy in existing buildings and structures, programs that directly provide for electrification of transportation or that provide financing of such electrification have the potential to enable utilities and their customers to achieve more efficient use of electricity and the electric distribution system infrastructure.

For these reasons, the legislature intends to drive toward an accelerated uptake of electric vehicles in two ways: First, state agencies will lead by acquiring electric vehicles at a pace that exceeds the projected uptake statewide over the next decade; and second, Washington citizens will have a greater choice in purchasing electric vehicles with the adoption of standards requiring manufacturers to offer more vehicles for sale in the state, consistent with an option available under the federal clean air act adopted in a dozen states, including California and Oregon.

**Sec.**  RCW 35.92.355 and 1993 c 204 s 5 are each amended to read as follows:

(1) The conservation of energy in all forms and by every possible means is found and declared to be a public purpose of highest priority. The legislature further finds and declares that all municipal corporations, quasi municipal corporations, and other political subdivisions of the state which are engaged in the generation, sale, or distribution of energy should be granted the authority to develop and carry out programs which will conserve resources, reduce waste, and encourage more efficient use of energy and energy infrastructure by consumers and utilities.

(2) In order to establish the most effective statewide program for energy conservation and energy infrastructure efficiency, the legislature hereby encourages any company, corporation, or association engaged in selling or furnishing utility services to assist their customers in the acquisition and installation of materials and equipment, for compensation or otherwise, for the conservation ((~~or~~)) and more efficient use of energy and energy infrastructure, including electric vehicle supply equipment. The use of appropriate tree plantings for energy conservation is encouraged as part of these programs.

(3) The legislature finds that utilities that are traditionally responsible for providing electric service to customers, and for understanding and engineering the electrical grid for safety and reliability, must be engaged in the electrification of the transportation system. The legislature further finds that it has given utilities other policy authority to promote energy conservation activities, which do not make the benefits of building out electric vehicle supply equipment, as well as any subsequent increase in energy consumption, readily apparent. Therefore, it is the intent of the legislature to provide clear authority for utilities to engage in and promote the build out of electric vehicle infrastructure, provided that this engagement and promotion is found to be cost-effective for utilities' electric ratepayers.

NEW SECTION. **Sec.**  A new section is added to chapter 35.92 RCW to read as follows:

(1) The governing body of a city or town engaged in the generation, sale, or distribution of energy may adopt a transportation electrification plan that, at a minimum, establishes a finding regarding the cost-effectiveness of utility engagement in and promotion of the build out of electric vehicle infrastructure for its electric ratepayers.

(2) If the governing body of the city or town finds that these activities would be cost-effective as determined under subsection (1) of this section, a city or town engaged in the generation, sale, or distribution of energy and that has four hundred thousand or more customers may, within limits established by the Constitution of the state of Washington:

(a) Assist its customers in financing the acquisition and installation of materials and equipment, for compensation or otherwise, for the electrification of transportation; and

(b) Offer programs, services, or investments in the electrification of transportation for its customers.

NEW SECTION. **Sec.**  A new section is added to chapter 54.16 RCW to read as follows:

(1) The commission of a district may adopt a transportation electrification plan that, at a minimum, establishes a finding regarding the cost-effectiveness of the district's engagement in and promotion of the build out of electric vehicle infrastructure for its electric ratepayers.

(2) If the commission of the district finds that these activities would be cost-effective as determined under subsection (1) of this section, a district may, within limits established by the Constitution of the state of Washington:

(a) Assist its customers in financing the acquisition and installation of materials and equipment, for compensation or otherwise, for the electrification of transportation; and

(b) Offer programs, services, or investments in the electrification of transportation for its customers.

**Sec.**  RCW 43.19.648 and 2013 c 328 s 1 are each amended to read as follows:

(1)(a) Each state agency and institution of higher education operating more than ten passenger vehicles and light duty trucks must meet the following goals to acquire electric vehicles as a percentage of the agency's fleet:

(i) At least twenty-five percent by January 1, 2024; and

(ii) At least fifty percent by January 1, 2030.

(b) This subsection (1) applies notwithstanding any conflicting provision of subsections (2) through (8) of this section or rules adopted thereunder.

(2) Effective June 1, 2015, all state agencies, to the extent determined practicable by the rules adopted by the department of commerce pursuant to RCW 43.325.080, are required to satisfy one hundred percent of their fuel usage for operating publicly owned vessels, vehicles, and construction equipment from electricity or biofuel. Compressed natural gas, liquefied natural gas, or propane may be substituted for electricity or biofuel if the department of commerce determines that electricity and biofuel are not reasonably available.

((~~(2)~~)) (3)(a) Effective June 1, 2018, all local government subdivisions of the state, to the extent determined practicable by the rules adopted by the department of commerce pursuant to RCW 43.325.080, are required to satisfy one hundred percent of their fuel usage for operating publicly owned vessels, vehicles, and construction equipment from electricity or biofuel. The department of commerce shall convene an advisory committee of representatives of local government subdivisions, representatives from organizations representing each local government subdivision, and either (i) an electric utility or (ii) a natural gas utility, or both, to work with the department to develop the rules. The department may invite additional stakeholders to participate in the advisory committee as needed and determined by the department.

(b) The following are exempt from this requirement: (i) Transit agencies using compressed natural gas on June 1, 2018, and (ii) engine retrofits that would void warranties. Nothing in this section is intended to require the replacement of equipment before the end of its useful life. Compressed natural gas, liquefied natural gas, or propane may be substituted for electricity or biofuel if the department of commerce determines that electricity and biofuel are not reasonably available.

(c)(i) Rules adopted pursuant to RCW 43.325.080 must provide the authority for local government subdivisions to elect to exempt police, fire, and other emergency response vehicles, including utility vehicles frequently used for emergency response, from the fuel usage requirement in (a) of this subsection.

(ii) Prior to executing its authority under (c)(i) of this subsection, a local government subdivision must provide notice to the department of commerce of the exemption. The notice must include the rationale for the exemption and an explanation of how the exemption is consistent with rules adopted by the department of commerce.

(d) Before June 1, 2018, local government subdivisions purchasing vessels, vehicles, and construction equipment capable of using biodiesel must request warranty protection for the highest level of biodiesel the vessel, vehicle, or construction equipment is capable of using, up to one hundred percent biodiesel, as long as the costs are reasonably equal to a vessel, vehicle, or construction equipment that is not warranted to use up to one hundred percent biodiesel.

((~~(3)~~)) (4) In order to phase in this transition for the state, all state agencies, to the extent determined practicable by the department of commerce by rules adopted pursuant to RCW 43.325.080, are required to achieve forty percent fuel usage for operating publicly owned vessels, vehicles, and construction equipment from electricity or biofuel by June 1, 2013. Compressed natural gas, liquefied natural gas, or propane may be substituted for electricity or biofuel if the department of commerce determines that electricity and biofuel are not reasonably available. The department of enterprise services, in consultation with the department of commerce, shall report to the governor and the legislature by December 1, 2013, on what percentage of the state's fuel usage is from electricity or biofuel.

((~~(4)~~)) (5) Except for cars owned or operated by the Washington state patrol, when tires on vehicles in the state's motor vehicle fleet are replaced, they must be replaced with tires that have the same or better rolling resistance as the original tires.

((~~(5)~~)) (6) By December 31, 2015, the state must, to the extent practicable, install electrical outlets capable of charging electric vehicles in each of the state's fleet parking and maintenance facilities.

((~~(6)~~)) (7) The department of transportation's obligations under subsection ((~~(3)~~)) (4) of this section are subject to the availability of amounts appropriated for the specific purpose identified in subsection ((~~(3)~~)) (4) of this section.

((~~(7)~~)) (8) The department of transportation's obligations under subsection ((~~(5)~~)) (6) of this section are subject to the availability of amounts appropriated for the specific purpose identified in subsection ((~~(5)~~)) (7) of this section unless the department receives federal or private funds for the specific purpose identified in subsection ((~~(5)~~)) (6) of this section.

((~~(8) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.~~

~~(a) "Battery charging station" means an electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.~~

~~(b) "Battery exchange station" means a fully automated facility that will enable an electric vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meets or exceeds any standards, codes, and regulations set forth by chapter 19.28 RCW and consistent with rules adopted under RCW 19.27.540.~~))

**Sec.**  RCW 70.120A.010 and 2010 c 76 s 1 are each amended to read as follows:

(1) Pursuant to the federal clean air act, the legislature adopts the California motor vehicle emission standards in Title 13 of the California Code of Regulations, effective January 1, 2005, except as provided in this chapter. The department of ecology shall adopt rules to implement the emission standards of the state of California for passenger cars, light duty trucks, and medium duty ((~~passenger~~)) vehicles, and shall amend the rules from time to time, to maintain consistency with the California motor vehicle emission standards and 42 U.S.C. Sec. 7507 (section 177 of the federal clean air act). ((~~Notwithstanding other provisions of this chapter, the department of ecology shall not adopt the zero emission vehicle program regulations contained in Title 13 section 1962 of the California Code of Regulations effective January 1, 2005. During rule development, the department of ecology shall convene an advisory group composed of industry and consumer group representatives. Any proposed rules or changes to rules shall be subject to review and comment by the advisory group, prior to rule adoption.~~)) The order of adoption for the rules required in this section shall include the signature of the governor. The rules shall be effective only for those model years for which the state of Oregon has adopted the California motor vehicle emission standards. This section does not limit the department of ecology's authority to regulate motor vehicle emissions for any other class of vehicle.

(2) Motor vehicles with a model year equal to or later than the first model year for which new vehicles sold to Washington state residents are required to comply with California motor vehicle emission standards are exempt from emission inspections under chapter 70.120 RCW.

(3) The provisions of this chapter do not apply with respect to the use by a resident of this state of a motor vehicle acquired and used while the resident is a member of the armed services and is stationed outside this state pursuant to military orders.

NEW SECTION. **Sec.**  This section is the tax preference performance statement for the tax preferences contained in section 8, chapter . . ., Laws of 2018 (section 8 of this act). The performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(1) The legislature categorizes the tax preference as one intended to induce certain designated behavior by taxpayers, as indicated in RCW 82.32.808(2)(a).

(2) It is the legislature's specific public policy objective to increase the use of clean alternative fuel vehicles in Washington. It is the legislature's intent to make permanent the existing sales and use tax exemption on certain clean alternative fuel vehicles in order to reduce the price charged to customers for clean alternative fuel vehicles.

(3) To measure the effectiveness of the tax preferences in section 8, chapter . . ., Laws of 2018 (section 8 of this act) in achieving the public policy objectives described in subsection (2) of this section, the joint legislative audit and review committee must evaluate the number of clean alternative fuel vehicles titled in the state in calendar year 2023.

(4) In order to obtain the data necessary to perform the review in subsection (3) of this section, the department of licensing must provide data needed for the joint legislative audit and review committee analysis. In addition to the data source described under this subsection, the joint legislative audit and review committee may use any other data it deems necessary.

**Sec.**  RCW 82.08.809 and 2016 sp.s. c 32 s 2 are each amended to read as follows:

(1)(a) Except as provided in subsection (4) of this section, the tax levied by RCW 82.08.020 does not apply to sales of new passenger cars, light duty trucks, and medium duty passenger vehicles, which (i) are exclusively powered by a clean alternative fuel or (ii) use at least one method of propulsion that is capable of being reenergized by an external source of electricity and are capable of traveling at least thirty miles using only battery power.

(b) Beginning with sales made or lease agreements signed on or after July 1, 2016, the exemption in this section is only applicable for up to thirty-two thousand dollars of a vehicle's selling price or the total lease payments made plus the selling price of the leased vehicle ((~~if the original lessee purchases the leased vehicle before the expiration of the exemption as described in subsection (6) of this section~~)).

(2) The seller must keep records necessary for the department to verify eligibility under this section.

(3) As used in this section, "clean alternative fuel" means natural gas, propane, hydrogen, or electricity, when used as a fuel in a motor vehicle that meets the California motor vehicle emission standards in Title 13 of the California code of regulations, effective January 1, 2005, and the rules of the Washington state department of ecology.

(4)(a) A sale, other than a lease, of a vehicle identified in subsection (1)(a) of this section made on or after July 15, 2015, and before July 1, 2016, is not exempt from sales tax as described under subsection (1) of this section if the selling price of the vehicle plus trade-in property of like kind exceeds thirty-five thousand dollars.

(b) A sale, other than a lease, of a vehicle identified in subsection (1)(a) of this section made on or after July 1, 2016, ((~~and before the expiration of the exemption as described in subsection (6) of this section,~~)) is not exempt from sales tax as described under subsection (1)(b) of this section if, at the time of sale, the lowest manufacturer's suggested retail price, as determined in rule by the department of licensing pursuant to chapter 34.05 RCW, for the base model is more than forty-two thousand five hundred dollars.

(c) For leased vehicles for which the lease agreement was signed before July 1, 2015, lease payments are exempt from sales tax as described under subsection (1)(a) of this section regardless of the vehicle's fair market value at the inception of the lease.

(d) For leased vehicles identified in subsection (1)(a) of this section for which the lease agreement is signed on or after July 15, 2015, and before July 1, 2016, lease payments are not exempt from sales tax if the fair market value of the vehicle being leased exceeds thirty-five thousand dollars at the inception of the lease. For the purposes of this subsection (4), "fair market value" has the same meaning as "value of the article used" in RCW 82.12.010.

(e) For leased vehicles identified in subsection (1)(a) of this section for which the lease agreement is signed on or after July 1, 2016, ((~~and before the expiration of the exemption as described in subsection (6) of this section,~~)) lease payments are not exempt from sales tax as described under subsection (1)(b) of this section if, at the inception of the lease, the lowest manufacturer's suggested retail price, as determined in rule by the department of licensing pursuant to chapter 34.05 RCW, for the base model is more than forty-two thousand five hundred dollars.

(f) The department of licensing must maintain and publish a list of all vehicle models qualifying for the sales tax exemption under this section ((~~until the expiration of the exemption as described in subsection (6) of this section~~)).

(5)(a) On the last day of January, April, July, and October of each year until the department receives notice from the department of licensing under subsection (6)(b) of this section that the cumulative number of seven thousand five hundred qualifying vehicles has been reached, the state treasurer, based upon information provided by the department, must transfer from the multimodal transportation account to the general fund a sum equal to the dollar amount that would otherwise have been deposited into the general fund during the prior calendar quarter but for the exemption provided in this section.

(b) Information provided by the department to the state treasurer must be based on the best available data, except that the department may provide estimates of taxes exempted under this section until such time as retailers are able to report such exempted amounts on their tax returns. For purposes of this section, the first transfer for the calendar quarter after July 15, 2015, must be calculated assuming only those revenues that should have been deposited into the general fund beginning July 1, 2015.

(6)(a) ((~~The exemption under this section expires, effective with sales of vehicles delivered to the buyer or leased vehicles for which the lease agreement was signed, after the last day of the calendar month immediately following the month the department receives notice from the department of licensing under subsection (7)(b) of this section. All leased vehicles that qualified for the exemption before the expiration of the exemption must continue to receive the exemption as described under subsection (1)(b) of this section on lease payments due through the remainder of the lease.~~

~~(b) Upon receiving notice from the department of licensing under subsection (7)(b) of this section, the department must provide notice as soon as is practicable on its web site of the expiration date of the exemption under this section.~~

~~(c) For purposes of this subsection, even if the department of licensing provides the department with notice under subsection (7)(b) of this section before the end of the fifth working day of the month notice is required, the notice is deemed to have been received by the department at the end of the fifth working day of the month notice is required.~~

~~(d) If, by the end of the fifth working day of May 2019, the department has not received notice from the department of licensing under subsection (7)(b) of this section, the exemption under this section expires effective with sales of vehicles delivered to the buyer or leased vehicles for which the lease agreement was signed after June 30, 2019.~~

~~(e) Nothing in this subsection (6) may be construed to affect the validity of any exemption properly allowed by a seller under this section before the expiration of the exemption as described in (a) of this subsection and reported to the department on returns filed after the expiration of the exemption.~~

~~(f) Nothing in this subsection (6) may be construed to allow an exemption under this section for the purchase of a qualifying vehicle by the original lessee of the vehicle after the expiration of the exemption as provided in (a) of this subsection.~~

~~(7)(a)~~)) By the end of the fifth working day of each month, ((~~until the expiration of the exemption as described in subsection (6) of this section,~~)) the department of licensing must determine the cumulative number of qualifying vehicles titled on or after July 15, 2015, and provide notice of the cumulative number of these vehicles to the department.

(b) The department of licensing must notify the department once the cumulative number of qualifying vehicles titled in the state on or after July 15, 2015, equals or exceeds seven thousand five hundred.

((~~(8)~~)) (7) By the last day of July 2016, and every six months thereafter ((~~until the expiration of the exemption as described in subsection (6) of this section,~~)) based on the best available data, the department must report the following information to the transportation committees of the legislature: The cumulative number of qualifying vehicles titled in the state on or after July 15, 2015, as reported to it by the department of licensing; and the dollar amount of all state retail sales and use taxes exempted on or after July 15, 2015, under this section and RCW 82.12.809.

((~~(9)~~)) (8) For purposes of this section, "qualifying vehicle" means a vehicle qualifying for the exemption under this section or RCW 82.12.809 in which the sale was made or the lease agreement was signed on or after July 15, 2015.

**Sec.**  RCW 82.12.809 and 2016 sp.s. c 32 s 3 are each amended to read as follows:

(1)(a) Except as provided in subsection (4) of this section, the provisions of this chapter do not apply in respect to the use of new passenger cars, light duty trucks, and medium duty passenger vehicles, which (i) are exclusively powered by a clean alternative fuel or (ii) use at least one method of propulsion that is capable of being reenergized by an external source of electricity and are capable of traveling at least thirty miles using only battery power.

(b) Beginning with purchases made or lease agreements signed on or after July 1, 2016, the exemption in this section is only applicable for up to thirty-two thousand dollars of a vehicle's purchase price or the total lease payments made plus the purchase price of the leased vehicle ((~~if the original lessee purchases the leased vehicle before the expiration of the exemption as described in RCW 82.08.809(6)~~)).

(2) The definitions in RCW 82.08.809 apply to this section.

(3) A taxpayer is not liable for the tax imposed in RCW 82.12.020 on the use((~~, on or after the expiration of the exemption as described in RCW 82.08.809(6),~~)) of a passenger car, light duty truck, or medium duty passenger vehicle that is exclusively powered by a clean alternative fuel or uses at least one method of propulsion that is capable of being reenergized by an external source of electricity and is capable of traveling at least thirty miles using only battery power, if the taxpayer used such vehicle in this state ((~~before the expiration of the exemption as described in RCW 82.08.809(6),~~)) and the use was exempt under this section from the tax imposed in RCW 82.12.020.

(4)(a) For vehicles identified in subsection (1)(a) of this section purchased on or after July 1, 2016, ((~~and before the expiration of the exemption as described in RCW 82.08.809(6),~~)) or for leased vehicles identified in subsection (1)(a) of this section for which the lease agreement was signed on or after July 1, 2016, ((~~and before the expiration of the exemption as described in RCW 82.08.809(6),~~)) a vehicle is not exempt from use tax as described under subsection (1)(b) of this section if, at the time the tax is imposed for purchased vehicles or at the inception of the lease for leased vehicles, the lowest manufacturer's suggested retail price, as determined in rule by the department of licensing pursuant to chapter 34.05 RCW, for the base model is more than forty-two thousand five hundred dollars.

(b) For vehicles identified in subsection (1)(a) of this section purchased on or after July 15, 2015, and before July 1, 2016, or for leased vehicles identified in subsection (1)(a) of this section for which the lease agreement was signed on or after July 15, 2015, and before July 1, 2016, a vehicle is not exempt from use tax if the fair market value of the vehicle exceeds thirty-five thousand dollars at the time the tax is imposed for purchased vehicles, or at the inception of the lease for leased vehicles.

(c) For leased vehicles for which the lease agreement was signed before July 1, 2015, lease payments are exempt from use tax as described under subsection (1)(a) of this section regardless of the vehicle's fair market value at the inception of the lease.

(5)(a) On the last day of January, April, July, and October of each year until the department receives notice from the department of licensing under RCW 82.08.809(6)(b) that the cumulative number of seven thousand five hundred qualifying vehicles has been reached, the state treasurer, based upon information provided by the department, must transfer from the multimodal transportation account to the general fund a sum equal to the dollar amount that would otherwise have been deposited into the general fund during the prior calendar quarter but for the exemption provided in this section.

(b) Information provided by the department to the state treasurer must be based on the best available data. For purposes of this section, the first transfer for the calendar quarter after July 15, 2015, must be calculated assuming only those revenues that should have been deposited into the general fund beginning July 1, 2015.

((~~(6)(a) The exemption provided under this section does not apply to the use of new passenger cars, light duty trucks, and medium duty passenger vehicles, or lease payments due on such vehicles, if the date of sale of the vehicle from the seller to the buyer occurred or the lease agreement was signed after the expiration of the exemption as provided in RCW 82.08.809(6).~~

~~(b) All leased vehicles that qualified for the exemption before the expiration of the exemption must continue to receive the exemption as described under subsection (1)(b) of this section on lease payments due through the remainder of the lease.~~

~~(c) Nothing in this subsection (6) may be construed to allow an exemption under this section for the purchase of a qualifying vehicle by the original lessee of the vehicle after the expiration of the exemption.~~))

NEW SECTION. **Sec.**  RCW 82.32.805 does not apply to any provisions of chapter . . ., Laws of 2018 (this act).

NEW SECTION. **Sec.**  Sections 8 and 9 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

**--- END ---**