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**SUBSTITUTE SENATE BILL 5444**

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**State of Washington 67th Legislature 2021 Regular Session**

**By** Senate Transportation (originally sponsored by Senators Saldaña, Hobbs, Nguyen, and Nobles)

AN ACT Relating to implementing a per mile charge on electric and hybrid vehicles; amending RCW 46.17.323, 46.17.324, and 42.56.330; adding a new section to chapter 46.17 RCW; adding a new section to chapter 46.08 RCW; creating a new section; repealing RCW 46.17.323; and providing an effective date.

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

NEW SECTION. **Sec.**  The legislature finds that increasing the rate of adoption of electric and hybrid vehicles is helping to reduce harmful air pollution from exhaust emissions, including greenhouse gas emissions, in the state. At the same time, the legislature also finds that there is a need to ensure that the greater adoption of electric and hybrid vehicles does not reduce funds to maintain and improve transportation infrastructure and that there is a need for fairness in how these funds are generated. The legislature also finds that a road usage charge or per mile fee system appears to be a viable method to ensure these goals are achieved. It is therefore the legislature's intent to impose a per mile fee to mitigate the impact of increased electric and hybrid vehicles on state roads and highways and to allow further evaluation of the feasibility of transitioning from a revenue collection system based on fuel taxes to a per mile funding system.

The legislature further finds and declares that the per mile funding system must at all times recognize and respect an individual's interests in privacy, information use, and civil liberties. Experience in states that collect road usage charges, as well as the research and year-long test of road usage charging in Washington, demonstrates that mileage-based charges can be implemented in a way that ensures data security and protects the privacy of vehicle owners. The legislature intends that the per mile funding system authorized in this act be designed and implemented in a manner that places privacy of the vehicle owner as a first principle, especially with regard to location data. Detailed travel locations or patterns must not be disclosed, and legal and technical safeguards must protect personal information.

NEW SECTION. **Sec.**  A new section is added to chapter 46.17 RCW to read as follows:

(1) By December 1, 2023, the department and the transportation commission must collaborate to develop an implementation plan for the voluntary early adoption program pursuant to subsection (3) of this section and imposing a per mile fee on electric and hybrid vehicles pursuant to subsection (2) of this section with the goal of creating a more dynamic and equitable funding system that could potentially incorporate additional policy priorities than the current transportation funding system. This plan must incorporate the ongoing work of the transportation commission in evaluating a road usage charge, including coordinating with federal grant-funded research and development to continue in parallel with these activities. The plan must include, but is not limited to:

(a) Different mileage reporting methods;

(b) Recommended payment collection means and rates for achieving cost efficiency, fairness, minimal administrative cost, payment compliance, consumer choice, and preserving individual privacy;

(c) Adjustments or modifications to ensure that the existing funding for local government support and transportation infrastructure investments are maintained and not reduced as a result of the fee reductions in this act;

(d) Options for differential or additional rates based on the particular classifications of vehicles, to ensure vehicles are paying for their proportional impact on road preservation and maintenance costs, legislative environmental policies, or other policy levers that the legislature may want to consider;

(e) Options for collaborating with other states or countries in the development and administration of the per mile funding system;

(f) Evaluation and comparison of the benefits and costs of allowing for payment plan options and annual payment;

(g) Any recommended statutory changes, including suggested offsets or rebates to the per mile fees. These offsets or rebates will not be utilized in the per mile funding system until approved by the legislature;

(h) Specific recommendations to better align the system with other vehicle-related charges and potentially establish the framework for broader implementation of a per mile funding system, including analysis of the preferred method for addressing eighteenth amendment restriction considerations;

(i) A recommended implementation and governance structure, and transition plan with the department as the designated lead agency to operate and administer the per mile funding system;

(j) A recommendation on the best agency to be lead for public outreach and education;

(k) Recommendations for augmenting vehicle owner privacy in light of new and emerging mileage reporting methods or technologies, and proposed rules to be adopted by the commission related to extend privacy protections in a per mile funding system; and

(l) Detailed information on the recommended periodic review and evaluation process to best ensure the per mile funding system is achieving the policy and revenue goals established by the legislature.

(2)(a) Beginning July 1, 2026, before accepting an application for an initial annual vehicle registration or renewal for a vehicle that both (i) uses at least one method of propulsion that is capable of being reenergized by an external source of electricity and (ii) is capable of traveling at least 30 miles using only battery power, the department, county auditor or other agent, or subagent appointed by the director must require the applicant to pay a per mile fee as specified in this section. This fee is in addition to all other fees and taxes required by law.

(b) The rate of the per mile fee is as follows:

(i) From July 1, 2026, through June 30, 2029, two cents per mile driven;

(ii) On July 1, 2029, and thereafter, two and one-half cents per mile driven; and

(iii) The rates specified in (b)(i) and (ii) of this subsection may be adjusted based on new information and changes in legislative policy.

(3)(a) By July 1, 2025, the department, in consultation with the transportation commission, must establish a voluntary early adoption program that allows the registered owner of an electric or hybrid vehicle that 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 30 miles using only battery power to start paying a per mile fee earlier than the mandatory participation date of July 1, 2026.

(b) Except as otherwise specified in this subsection (3), participants in the voluntary early adoption program must pay two cents per mile driven in addition to all other fees and taxes required by law.

(c) For active participants in the voluntary early adoption program, the department must waive payment of the electric vehicle registration renewal fees as specified in RCW 46.17.323 and the transportation electrification fee as specified in RCW 46.17.324(1).

(d) Besides the vehicles specified in (a) of this subsection, the voluntary early adoption program must include participation of at least five hundred electric, hybrid, and internal combustion state-owned passenger or light duty truck fleet vehicles. These vehicles are not subject to the per mile fee specified in (b) of this subsection. The department, in consultation with the transportation commission, shall establish the types of state fleet vehicles for participation to further test the viability of a per mile fee on the full range of vehicles that may be subject to a per mile fee in future years. The voluntary early adoption program as it specifically relates to state-owned fleet vehicles may be initiated as early as December 1, 2024, based on the technical capability of the department to implement the program for these vehicles.

(e) By July 1, 2024, after consultation with the transportation commission on lessons learned from Washington's road usage charge pilot and research, the department must adopt rules to implement the voluntary early adoption program specified in this subsection (3), which must include procedures for recoupment of any waived fees if the participant is not actively participating in the voluntary early adoption program.

(4) This section only applies to a vehicle that is designed to have the capability to drive at a speed of more than 35 miles per hour and has a gross vehicle weight rating of 10,000 pounds or less.

(5) Proceeds from the per mile fee imposed under this section must be used for preservation and maintenance and must be deposited in the motor vehicle fund created in RCW 46.68.070.

**Sec.**  RCW 46.17.323 and 2015 3rd sp.s. c 44 s 203 are each amended to read as follows:

(1) Before accepting an application for an annual vehicle registration renewal for a vehicle that both (a) uses at least one method of propulsion that is capable of being reenergized by an external source of electricity and (b) is capable of traveling at least thirty miles using only battery power, the department, county auditor or other agent, or subagent appointed by the director must require the applicant to pay a one hundred dollar fee in addition to any other fees and taxes required by law. The one hundred dollar fee is due only at the time of annual registration renewal.

(2) This section only applies to a vehicle that is designed to have the capability to drive at a speed of more than thirty-five miles per hour.

(3)(a) The fee under this section is imposed to provide funds to mitigate the impact of vehicles on state roads and highways and for the purpose of evaluating the feasibility of transitioning from a revenue collection system based on fuel taxes to a road user assessment system, and is separate and distinct from other vehicle license fees. Proceeds from the fee must be used for highway purposes, and must be deposited in the motor vehicle fund created in RCW 46.68.070, subject to (b) of this subsection.

(b) If in any year the amount of proceeds from the fee collected under this section exceeds one million dollars, the excess amount over one million dollars must be deposited as follows:

(i) Seventy percent to the motor vehicle fund created in RCW 46.68.070;

(ii) Fifteen percent to the transportation improvement account created in RCW 47.26.084; and

(iii) Fifteen percent to the rural arterial trust account created in RCW 36.79.020.

(4)(a) In addition to the fee established in subsection (1) of this section, before accepting an application for an annual vehicle registration renewal for a vehicle that both (i) uses at least one method of propulsion that is capable of being reenergized by an external source of electricity and (ii) is capable of traveling at least thirty miles using only battery power, the department, county auditor or other agent, or subagent appointed by the director must require the applicant to pay a fifty dollar fee.

(b) The fee required under (a) of this subsection must be distributed as follows:

(i) The first one million dollars raised by the fee must be deposited into the multimodal transportation account created in RCW 47.66.070; and

(ii) Any remaining amounts must be deposited into the motor vehicle fund created in RCW 46.68.070.

(5) This section applies to annual vehicle registration renewals until the effective date of enacted legislation that imposes a vehicle miles traveled fee or tax. However, for purposes of this subsection, the establishment of the voluntary early adoption program described in section 2(3) of this act does not constitute legislation that imposes a vehicle miles traveled fee or tax.

(6) Beginning July 1, 2025, participants in the voluntary early adoption program described in section 2(3) of this act are exempt from the fees specified in this section.

**Sec.**  RCW 46.17.324 and 2019 c 287 s 23 are each amended to read as follows:

To realize the environmental benefits of electrification of the transportation system it is necessary to support the adoption of electric vehicles and other electric technology in the state by incentivizing the purchase of these vehicles, building out the charging infrastructure, developing greener transit options, and supporting clean alternative fuel infrastructure. Therefore, it is the intent of the legislature to support these activities through the imposition of new transportation electrification fees in this section.

(1) ((~~A~~)) Until July 1, 2026, a vehicle that both (a) uses at least one method of propulsion that is capable of being reenergized by an external source of electricity and (b) is capable of traveling at least thirty miles using only battery power, is subject to an annual seventy-five dollar transportation electrification fee to be collected by the department, county auditor, or other agent or subagent appointed by the director, in addition to any other fees and taxes required by law. For administrative efficiencies, the transportation electrification fee must be collected at the same time as vehicle registration renewals and may only be collected for vehicles that are renewing an annual vehicle registration.

(2) Beginning October 1, 2019, and until July 1, 2026, in lieu of the fee in subsection (1) of this section for a hybrid or alternative fuel vehicle that is not required to pay the fees established in RCW 46.17.323 (1) and (4), the department, county auditor, or other agent or subagent appointed by the director must require that the applicant for the annual vehicle registration renewal of such hybrid or alternative fuel vehicle pay a seventy-five dollar hybrid vehicle transportation electrification fee, in addition to any other fees and taxes required by law. However, the fee imposed under this subsection does not apply to applicants participating in the voluntary early adoption program described in section 2(3) of this act.

(3) Beginning July 1, 2026, the department, county auditor, or other agent or subagent appointed by the director must require that an applicant for the annual vehicle registration renewal for vehicles specified in this subsection to pay a $75 hybrid vehicle transportation electrification fee, in addition to any other fees and taxes required by law. This fee applies to:

(a) An electric or hybrid vehicle that uses at least one method of propulsion that is capable of being reenergized by an external source of electricity, but is not capable of traveling at least 30 miles using only battery power; or

(b) A hybrid electric and gasoline vehicle that is not a plug-in hybrid.

(4) The fees required under this section must be deposited in the electric vehicle account created in RCW 82.44.200, until July 1, 2025, when the fee must be deposited in the motor vehicle account.

((~~(4)~~)) (5) This section only applies to a vehicle that is designed to have the capability to drive at a speed of more than thirty-five miles per hour.

(6) Beginning July 1, 2025, participants in the voluntary early adoption program described in section 2(3) of this act are exempt from the fees specified in subsection (1) of this section.

NEW SECTION. **Sec.**  A new section is added to chapter 46.08 RCW to read as follows:

(1) The per mile system established to collect the per mile fee under section 2 of this act may not involve the collection of any personally identifying information beyond what is necessary to properly calculate, report, and collect the per mile fee, unless the vehicle owner provides his or her express written consent for the collection of additional information.

(2) Per mile reporting methods may record or report general location data under the following circumstances: (a) the vehicle owner chooses that specific reporting method; (b) proper disclosure of the reporting method was made pursuant to rules adopted by the transportation commission; and (c) the vehicle owner specifically consents to the reporting of general location data.

(3) Per mile reporting methods shall not report specific location data to the department or any subdivision of the state, including travel patterns, origins, destinations, waypoint locations, or times of travel unless a vehicle owner specifically consents to the recording or reporting of such location data.

(4) The department and any per mile account manager has an affirmative public duty regarding the collection of the per mile fee under section 2 of this act to:

(a) Ensure that per mile information is protected with reasonable operational, administrative, technical, and physical safeguards to ensure its confidentiality and integrity;

(b) Implement and maintain reasonable security procedures and practices in order to protect per mile information from unauthorized access, destruction, use, modification, or disclosure; and

(c) Implement and maintain a usage and privacy policy to ensure that the collection of per mile information is consistent with respect for individuals' privacy and civil liberties.

(5) Per mile system data retained beyond the period of time necessary to ensure proper mileage account payment must have all personally identifying information removed and may only be used for public purposes.

(6) For the purposes of this section:

(a) "General location data" means information about whether a vehicle has traveled on taxable roadways within the state of Washington.

(b) "Personally identifying information" means any information that identifies or describes a person including, but not limited to, travel pattern data, address, telephone number, email address, photograph, bank account information, or credit card number. "Personally identifying information" does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

(c) "Public purposes" means research, testing, and information gathering that advances the safety of the motoring public and the adequate preservation, maintenance, and upkeep of public roadways.

(d) "Specific location data" means information about the origin, destination, waypoint, or travel patterns of vehicles.

(e) "Vehicle owner" has the same meaning as in RCW 46.04.380.

**Sec.**  RCW 42.56.330 and 2017 c 333 s 6 are each amended to read as follows:

The following information relating to public utilities and transportation is exempt from disclosure under this chapter:

(1) Records filed with the utilities and transportation commission or attorney general under RCW 80.04.095 or 81.77.210 that a court has determined are confidential under RCW 80.04.095 or 81.77.210;

(2) The addresses, telephone numbers, electronic contact information, and customer-specific utility usage and billing information in increments less than a billing cycle of the customers of a public utility contained in the records or lists held by the public utility of which they are customers, except that this information may be released to the division of child support or the agency or firm providing child support enforcement for another state under Title IV-D of the federal social security act, for the establishment, enforcement, or modification of a support order;

(3) The names, residential addresses, residential telephone numbers, and other individually identifiable records held by an agency in relation to a vanpool, carpool, or other ride-sharing program or service. Participants' names, general locations, and point of contact may be disclosed to other persons who apply for ride-matching services and who need that information in order to identify potential riders or drivers with whom to share rides;

(4) The personally identifying information of current or former participants or applicants in a paratransit or other transit service operated for the benefit of persons with disabilities or elderly persons;

(5) The personally identifying information of persons who acquire and use transit passes or other fare payment media including, but not limited to, stored value smart cards and magnetic strip cards, except that an agency may disclose personally identifying information to a person, employer, educational institution, or other entity that is responsible, in whole or in part, for payment of the cost of acquiring or using a transit pass or other fare payment media for the purpose of preventing fraud. As used in this subsection, "personally identifying information" includes acquisition or use information pertaining to a specific, individual transit pass or fare payment media.

(a) Information regarding the acquisition or use of transit passes or fare payment media may be disclosed in aggregate form if the data does not contain any personally identifying information.

(b) Personally identifying information may be released to law enforcement agencies if the request is accompanied by a court order;

(6) Any information obtained by governmental agencies that is collected by the use of a motor carrier intelligent transportation system or any comparable information equipment attached to a truck, tractor, or trailer; however, the information may be given to other governmental agencies or the owners of the truck, tractor, or trailer from which the information is obtained. As used in this subsection, "motor carrier" has the same definition as provided in RCW 81.80.010;

(7) The personally identifying information of persons who acquire and use transponders or other technology to facilitate payment of tolls. This information may be disclosed in aggregate form as long as the data does not contain any personally identifying information. For these purposes aggregate data may include the census tract of the account holder as long as any individual personally identifying information is not released. Personally identifying information may be released to law enforcement agencies only for toll enforcement purposes. Personally identifying information may be released to law enforcement agencies for other purposes only if the request is accompanied by a court order;

(8) The personally identifying information of persons who acquire and use a driver's license or identicard that includes a radio frequency identification chip or similar technology to facilitate border crossing. This information may be disclosed in aggregate form as long as the data does not contain any personally identifying information. Personally identifying information may be released to law enforcement agencies only for United States customs and border protection enforcement purposes. Personally identifying information may be released to law enforcement agencies for other purposes only if the request is accompanied by a court order; ((~~and~~))

(9) Personally identifying information included in safety complaints submitted under chapter 81.61 RCW; and

(10) The personally identifying information of persons, as defined in section 5 of this act, who report their vehicle odometer mileage, including any vehicle location information, in relation to a per mile fee imposed under section 2 of this act, or similar mileage tax, collected by or on behalf of the state of Washington. This information may be disclosed in aggregate form as long as the data does not contain any personally identifying information. Personally identifying information may be released to law enforcement agencies only if the request is accompanied by a court order.

NEW SECTION. **Sec.**  The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective July 1, 2026: RCW 46.17.323 (Electric vehicle registration renewal fees) and 2021 c ... s 3 (section 3 of this act), 2015 3rd sp.s. c 44 s 203, (2020 c 1 s 5 (Initiative Measure No. 976)), & 2012 c 74 s 10.

**--- END ---**